

The FAA has issued a separate final rule with request for comments for these proposed amendments. The separate final rule with request for comment is in today's **Federal Register**. The separate rule action will enable the FAA to proceed with the design and development phase of a high altitude RNAV route structure. The FAA believes that these amendments can be adopted separately without adverse impact on the continuing rulemaking process on the remaining proposed amendments in the NPRM.

The FAA has decided to accommodate the requests to reopen and extend the comment period. Based on the number of requests for extension, the FAA believes that the additional time is necessary for the public to fully analyze and comment on the proposed amendments.

Conclusion

In accordance with 14 CFR 11.47(c), the FAA has reviewed the requests for an extension of the comment period on "Area Navigation (RNAV) and Miscellaneous Amendments" published in the **Federal Register** December 17, 2002, and grants the requests in part.

Except as explained above and separately in this issue of the **Federal Register**, the comment period for the proposed RNAV operations and equipment provisions is reopened for an additional 90-day period until July 7, 2003.

Issued in Washington, DC, on March 28, 2003.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 911

[Docket No. 030220035-3035-01]

RIN 0648-AQ55

Policies and Procedures Concerning Use of the NOAA Space-Based Data Collection Systems

AGENCY: National Environmental Satellite, Data, and Information Service (NESDIS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The proposed rule will amend NOAA's policies and procedures regarding space-based data collection systems (DCS) to allow expanded use of the NOAA DCS for government interests and to permit greater flexibility in utilizing these vital U.S. data collection assets in support of homeland security, National security, law enforcement, and humanitarian operations.

DATES: Submit comments on or before May 8, 2003.

ADDRESSES: Written comments on the proposed rule should be sent to: Kay Metcalf, NOAA, NESDIS, Direct Services Division, E/SP3, Room 3320, FB-4, 5200 Auth Road, Suitland, Maryland 20746-4304.

FOR FURTHER INFORMATION CONTACT: Kay Metcalf at (301) 457-5681, e-mail: Kay.Metcalf@noaa.gov; or Glenn Tallia at 301-713-1337, e-mail: Glenn.E.Tallia@noaa.gov.

SUPPLEMENTARY INFORMATION: NOAA enacted 15 CFR Part 911, effective June 5, 1998, to revise its policies and procedures for authorizing the use of the space-based DCS that operate on NOAA's Geostationary Operational Environmental Satellites (GOES) and on its Polar-orbiting Operational Environmental Satellites (POES). For general background on NOAA DCS, refer to the notice of final rulemaking published in the **Federal Register** on May 6, 1998, at 63 FR 24917.

The current regulations enacted in 1998 revised the policy on the use of the GOES DCS and formalized a new policy for the use of the Argos Data Collection and Location System (Argos DCS) which flies on the POES. There are two fundamental principles underlying NOAA's DCS rule: (1) The Government will not allow its space-based DCS to be used where there are commercial space-based services available that fulfill user's requirements; and (2) NOAA DCS will be used predominantly for environmental applications.

The current regulations provide for non-environmental use of the Argos DCS in two instances: (1) Episodic uses, where there is the significant possibility of loss of life, which is consonant with NOAA's (and all U.S. Government agencies') inherent public safety mission; and (2) for government users and for non-profit users where there is a governmental interest, particularly in instances where the use of commercial services is not appropriate due to the sensitive nature of the applications (such as for National security or law enforcement purposes). Non-environmental use of the Argos DCS is limited to no more than five percent of the system's total use.

Explanation of Changes

The tragic events of September 11, 2001, precipitated a need to provide more flexibility in utilizing these vital United States data collection assets in support of homeland security, National security, law enforcement and humanitarian operations. The proposed changes will facilitate the expanded use of the NOAA DCS for government interests in these areas.

Nonetheless, the proposed revisions do not change the underlying policy that the use of the NOAA DCS will only be authorized where it is determined that there are no commercial space-based services available to meet the users' requirements. Furthermore, there will be no change in the general policy that the NOAA DCS will be used predominantly for environmental applications and that any exceptions to the general policy will be closely monitored by NOAA.

A subcategory of non-environmental use termed "sensitive use" would be established and will be inserted as new subsection 911.3(p). This new subcategory would be added to address those situations where the user is either a governmental entity or a non-profit organization with a governmental interest, and where the user's requirements dictate the use of a governmental system for reasons such as National security, homeland security, law enforcement, and humanitarian operations.

Current subsection 911.3(p), "testing use," is renumbered as 911.3(q) and changes have been made to correct a typographical error in the text of the CFR wherein part of the definition was repeated.

Current subsection 911.3(q), "user," is renumbered as 911.3(r) and a new clause is added to the definition to include the organization requiring collection of the data within the definition of "user."

Current subsection 911.3(r), "user platform," is renumbered as 911.3(s).

Current subsection 911.3(s), "user requirement," is renumbered as 911.3(t).

Subsection 911.4(c)(3) is changed to recognize non-environmental use, in those limited situations where it is allowed, for both types of NOAA DCS (Argos DCS and GOES DCS). Non-environmental use of the NOAA DCS systems will be limited to episodic use and to sensitive use. The five percent cap on non-environmental use of Argos DCS is removed to permit greater discretion for sensitive and episodic use of the system (subject to capacity limitations) on an as-needed basis.

In subsection 911.4(c)(4), episodic use is now recognized for all NOAA DCS, not just Argos DCS.

Subsection 911.5(c) is amended by inserting “for System Use Agreements and renewals” following “user requests” to clarify which user requests are covered.

Subsection 911.5(e)(1) is amended by inserting “environmental” before the word “data.”

Subsection 911.5(e)(3) and 911.5(e)(4) are added to define the period of performance for non-environmental use of GOES DCS.

Section 911.6 has been revised to ensure that users are on notice regarding the open data transmission aspects of the NOAA DCS. The proposed regulation amends section 911.6 as follows:

- Subsection 911.6(a) is amended to require users to permit NOAA and other agencies to make “appropriate use as determined by NOAA” of the data;

- Subsection 911.6(a) is further amended by inserting “environmental” before “data” to clarify which data will be subject to “full, open, timely, and appropriate use” by NOAA and other U.S. Government agencies;

- Subsection 911.6(a) also is amended to delete the last sentence in the current rule which refers to the protection of proprietary data (new subsections 911.6(b) and (c), below, will address this issue);

- A new subsection 911.6(b) is inserted to provide notice that the raw data from the NOAA space segment is openly transmitted and accessible; and

- A new subsection 911.6(c) is inserted to provide notice regarding the accessibility of NOAA DCS data during the ground segment.

The new provisions in 911.6 put users on notice that NOAA can only control data distribution once it is received at NOAA ground stations and, even then, only within the design limitations of the ground system segment. The revised rule notifies DCS users that raw data may be openly received during the space segment transmission of the data where access is not controlled. After the data is received, access to the processed data from the ground segment is affected by the user’s specifications and the system design limitations.

Appendix A (Argos DCS Use Policy Diagram) and Appendix B (GOES DCS Use Policy Diagram) have been updated to incorporate the effects of the proposed changes on the NOAA DCS system use policy.

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The factual basis for this certification is as follows. A fundamental principle underlying NOAA’s DCS rule is that Government will not allow its space-based DCS to be used where there are commercial space-based services available that fulfill user’s requirements. Moreover, the proposed rule provides for non-environmental use of the NOAA DCS in two discrete situations, one involving episodic uses in instances where there is a significant possibility of loss of life, and the other where there is a governmental interest and the use of commercial services is not appropriate due to the sensitive nature of the applications, such as for National security or law enforcement purposes. Thus the proposed rules are not expected to impact small businesses. As such, no initial regulatory flexibility analysis has been prepared.

Paperwork Reduction Act of 1995 (35 U.S.C. 3500 *et seq.*)

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved under OMB Control Number 0648–0157.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

The public reporting burden for this collection of information is estimated to average 3 hours per GOES agreement and 1 hour per Argos agreement, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this collection of information to Kay Metcalf, NOAA, National Environmental Satellite, Data, and Information Service, Direct Services Division, E/SP3, Room 3320, FB–4, 5200 Auth Road, Suitland, Maryland 20746–4304; and to OMB at the Office of Information and Regulatory Affairs, Washington, D.C. 20503 (Attention: NOAA Desk Officer).

National Environmental Policy Act (42 U.S.C. 4321 *et seq.*)

Publication of the final regulations does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

Executive Order 12866

This rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 15 CFR Part 911

Scientific equipment, Space transportation and exploration.

Dated: March 28, 2003.

Gregory W. Withee,

Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, Department of Commerce.

For the reasons set out in the preamble, 15 CFR part 911 is proposed to be amended as follows:

PART 911—POLICIES AND PROCEDURES CONCERNING USE OF THE NOAA SPACE-BASED DATA COLLECTION SYSTEMS

1. The authority citation for part 911 continues to read as follows:

Authority: 15 U.S.C. 313, 49 U.S.C. 44720; 15 U.S.C. 1525; 7 U.S.C. 450b; 5 U.S.C. 552.

2. Revise § 911.3(p), (q), (r), and (s) and add paragraph (t) as follows:

§ 911.3 Definitions.

* * * * *

(p) Sensitive use means the use of the NOAA DCS where the users’ requirements dictate the use of a governmental system such as National security, homeland security, law enforcement and humanitarian operations.

(q) Testing use means the use of the NOAA DCS by manufacturers of platforms for use in conjunction with the NOAA DCS, for the limited purpose of testing and certifying the compatibility of new platforms with the technical requirements of the NOAA DCS.

(r) User means the entity and/or organization that owns or operates user platforms for the purpose of collecting and transmitting data through the NOAA DCS, or the organization requiring the collection of the data.

(s) User platform means device designed in accordance with the specifications delineated and approved by the Approving Authority used for the in-situ collection and subsequent transmission of data via the NOAA DCS.

Those devices which are used in conjunction with the GOES DCS are referred to as data collection platforms (DCP) and those which are used in conjunction with the Argos DCS are referred to as Platform Transmitter Terminals (PTT). For purposes of these regulations, the terms "user platform," "DCP", and "PTT" are interchangeable.

(t) User requirement means the requirement expressed and explained in the System Use Agreement.

3. Revise § 911.4(c)(3) and (c)(4) as follows:

§ 911.4 Use of the NOAA Data Collection Systems.

* * * * *

(c) * * *
(3) Except as provided in paragraph (c)(4) of this section, non-environmental use of the NOAA DCS is only authorized for government use and non-profit users where there is a government interest. The NOAA DCS will continue to be predominantly used for environmental applications. Non-environmental use of the system shall be limited to sensitive use, and to episodic use as defined below in paragraph (c)(4) of this section.

(4) Episodic use of the NOAA DCS may also be authorized in specific instances where there is a significant

possibility for loss of life. Such use shall be closely monitored.

* * * * *

4. Revise § 911.5(c) and (e)(1), and add new paragraphs (e)(3), and (e)(4) as follows:

§ 911.5 NOAA Data Collection Systems Use Agreements.

* * * * *

(c) The Director shall evaluate user requests for System Use Agreements and renewals and conclude agreements for use of the NOAA DCS.

* * * * *

(e)
(1) Agreements for the collection of environmental data, by the GOES DCS, shall be valid for 5 years from the date of initial in-situ deployment, and may be renewed for additional 5-year periods.

* * * * *

(3) Agreements for the collection of non-environmental data, via the GOES DCS, by government agencies, or non-profit institutions where there is a government interest, shall be valid for 1 year from the date of initial in-situ deployment of the platforms, and may be renewed for additional 1-year periods.

(4) Agreements for the episodic collection of non-environmental data,

via the GOES DCS under § 911.4(c)(4), shall be of short, finite duration not to exceed 1 year without exception, and usually shall not exceed 6 months. These agreements shall be closely monitored and shall not be renewed.

5. Revise § 911.6 to read as follows:

§ 911.6 Treatment of data.

(a) All NOAA DCS users must agree to permit NOAA and other agencies of the U.S. Government the full, open, timely, and appropriate use as determined by NOAA, of all environmental data collected from their platforms; this may include the international distribution of environmental data under the auspices of the World Meteorological Organization.

(b) Raw data from the NOAA space segment is openly transmitted and accessible.

(c) Accessibility of the NOAA DCS processed data from the ground segment is handled in accordance with the users specifications and system design limitations, subject to the provisions stated in paragraph (a) of this section.

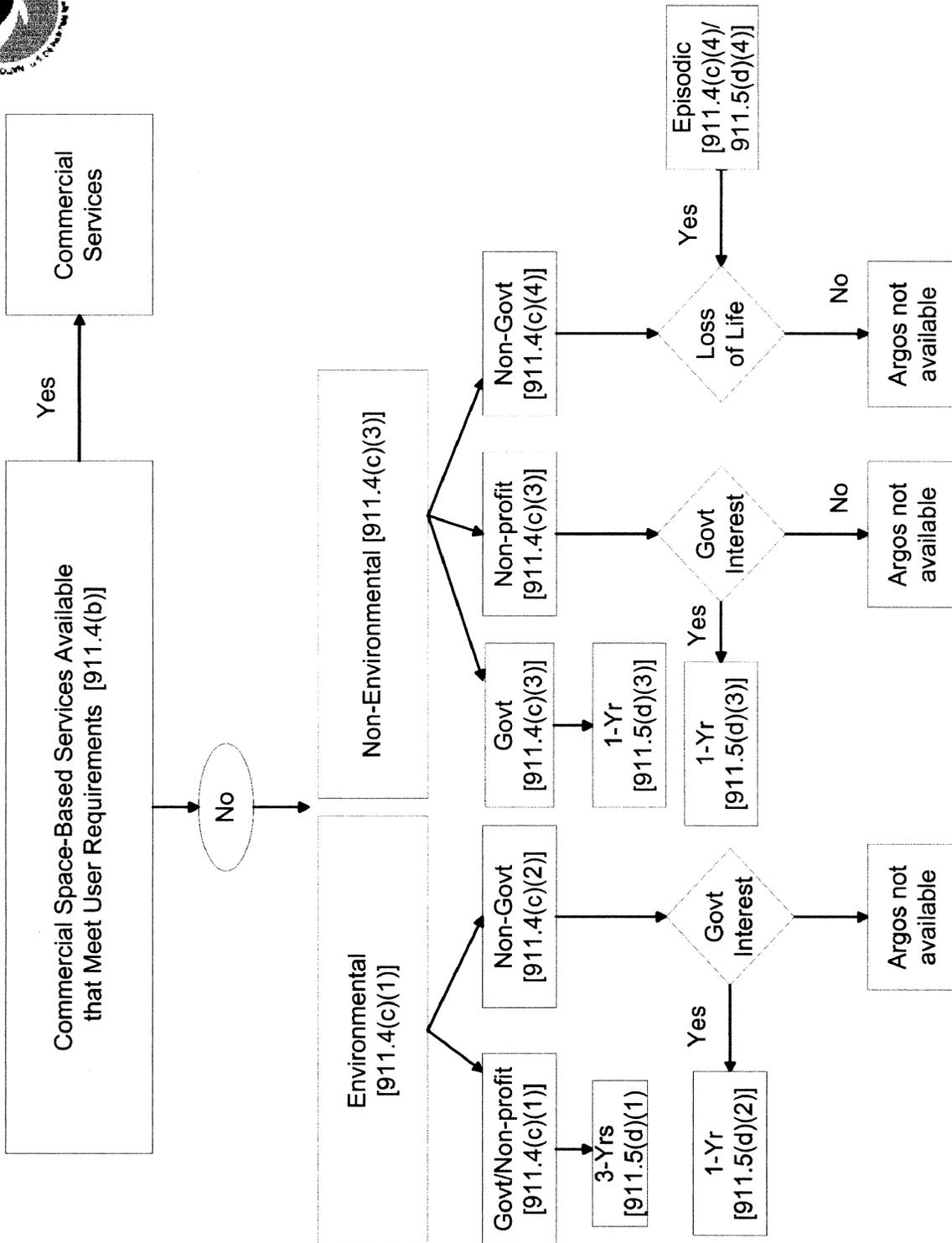
6. Revise Appendix A to Part 911 as follows:

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Appendix A to Part 911 - Argos DCS Use Policy Diagram

Argos DCS Use Policy Diagram



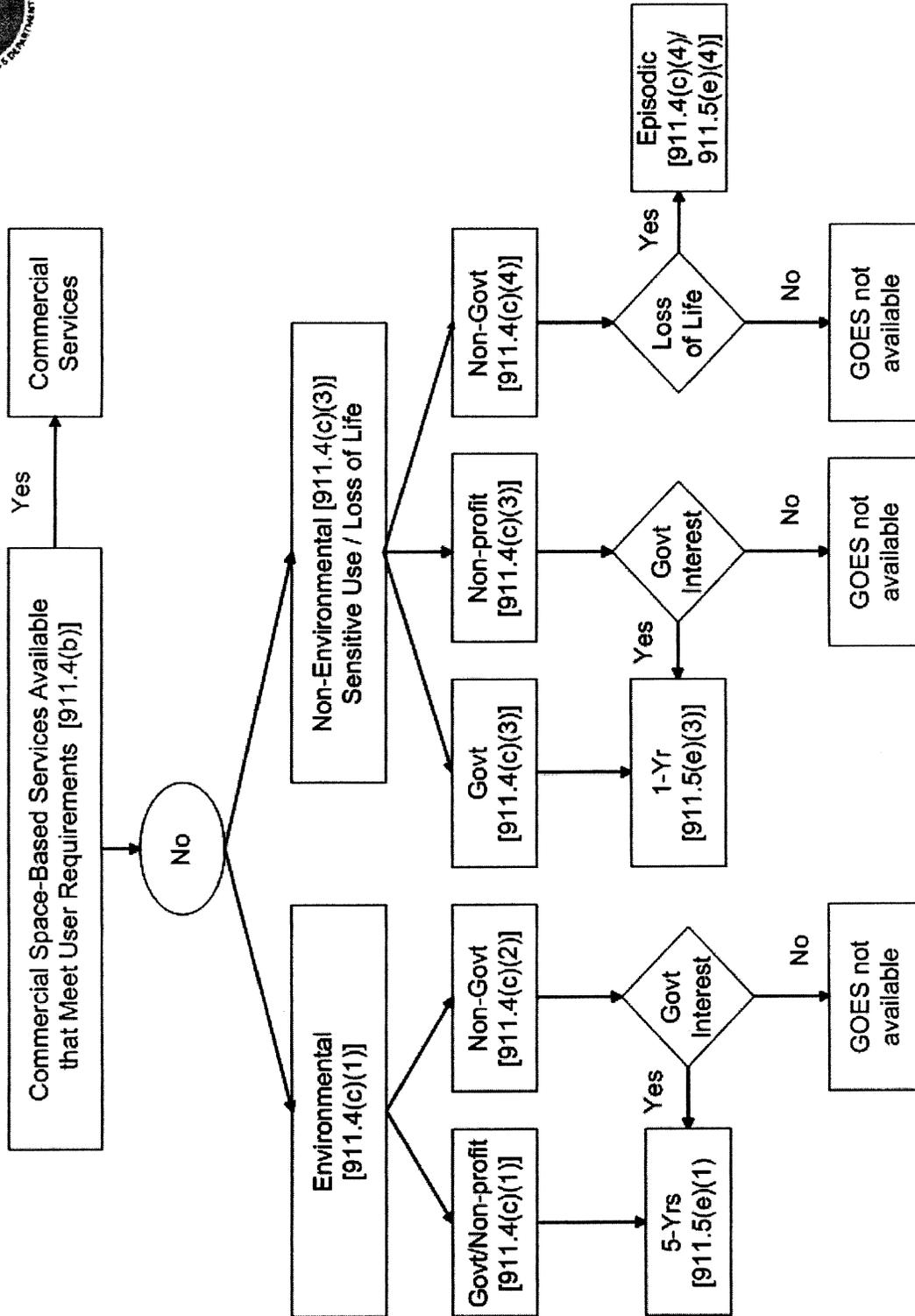
Note: Testing Use permitted as per [911.4(c)(5)] for up to 1-Yr [911.5(d)(5)] Appendix A

7. Revise Appendix B to Part 911 as follows:



Appendix B to Part 911 - GOES DCS Use Policy Diagram

GOES DCS Use Policy Diagram



Note: Testing Use permitted as per [911.4(c)(5)] for up to 1-Yr [911.5(e)(2)] Appendix A

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1

[Docket Nos. 02N-0275 and 02N-0277]

Proposed Regulations Implementing Title III of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; satellite downlink public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting (via satellite downlink) to discuss proposed regulations implementing two sections in Title III of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) regarding maintenance and inspection of records for foods (Docket No. 02N-0277) and administrative detention (Docket No. 02N-0275). FDA expects to publish shortly in the **Federal Register** proposed rules implementing each of these provisions. The purpose of the satellite downlink public meeting is to provide information on the proposed rules to the public and to provide the public an opportunity to ask questions or to provide comment.

DATES: The satellite downlink public meeting will be held on May 7, 2003, 1 to 3 p.m., eastern standard time. Questions submitted in advance must be received by the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document by 4:30 p.m. on May 2, 2003.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations where the satellite downlink may be viewed. A written transcript of the meeting will be available for viewing at Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and at <http://www.fda.gov/oc/bioterrorism/bioact.html>. A copy of the videotaped meeting may also be viewed at the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: Louis Carson, Center for Food Safety and Applied Nutrition (HFS-32), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740,

301-436-2277, FAX: 301-436-2605, e-mail: CFSAN-FSS@cfsan.fda.gov, for general questions about the downlink, submission of advance questions, and requests for a taped version of the meeting. Registration for specific downlink locations should be directed to the appropriate contact person listed in table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

The events of September 11, 2001, highlighted the need to enhance the security of the U.S. food supply. Congress responded by passing the Bioterrorism Act (Public Law 107-188), which was signed into law on June 12, 2002. The Bioterrorism Act includes four provisions in Title III (Protecting Safety and Security of Food and Drug Supply), Subtitle A (Protection of Food Supply) that require the Secretary of Health and Human Services, through FDA, to develop implementing regulations on an expedited basis. These four provisions are: Section 305 (Registration of Food Facilities), section 307 (Prior Notice of Imported Food Shipments), section 306 (Maintenance and Inspection of Records for Foods), and section 303 (Administrative Detention). On February 3, 2003, FDA published in the **Federal Register** notices of proposed rulemaking for registration of food facilities (68 FR 5378) and prior notice of imported food shipments (68 FR 5428), and will soon publish in the **Federal Register** notices of proposed rulemaking for maintenance and inspection of records for foods and administrative detention. During the satellite downlink public meeting, FDA will explain the proposed rules on maintenance and inspection of records for foods and administrative detention and will answer questions. The satellite downlink public meeting will be offered in English with simultaneous French and Spanish translation and will be simulcast live in English, French, and Spanish for North, Central, and South America (including Hawaii and Alaska).

On January 29, 2003, FDA held a satellite downlink meeting during which FDA explained the proposed rules for registration of food facilities and prior notice of imported food shipments to implement sections 305 and 307 of the Bioterrorism Act, respectively. You may download a copy of the videotape of this meeting at <http://www.cfsan.fda.gov/~comm/vltbtact.html>. A written transcript of the satellite downlink meeting may be requested in writing from the Freedom of Information Office (HFI-35), Food

and Drug Administration, 5600 Fishers Lane, rm. 12A-16, Rockville, MD 20857, within 3 weeks of the satellite downlink public meeting at a cost of 10 cents per page. Contact Louis Carson for a copy of the videotaped meeting. A copy of the video taped meeting may also be viewed at the Dockets Management Branch.

Information about the public meetings, a list of additional non-FDA Web sites for viewing the public meetings, contact information, the provisions of the Bioterrorism Act under FDA's jurisdiction, and the agency's implementation plans are available at <http://www.fda.gov/oc/bioterrorism/bioact.html>.

II. Submitting Questions

Interested persons may submit questions concerning the proposals in advance of the satellite downlink meeting. The deadline for the submission of questions is provided in the **DATES** section of this notice. Questions submitted in advance will be used by the session moderator to help clarify issues of concern and provide information about the proposals during the downlink meeting. The viewing audience may also telephone, fax, or e-mail questions to FDA officials during the live downlink.

III. Proposed Regulations to be Addressed

The proposed regulations that will be addressed at the satellite downlink public meeting announced in this document concern the following provisions of the Bioterrorism Act:

Section 303 (Administrative Detention) of the Bioterrorism Act authorizes FDA to detain food if the agency has credible evidence or information that the food presents a threat of serious adverse health consequences or death to humans or animals. The Bioterrorism Act requires FDA to issue regulations to provide procedures for instituting on an expedited basis certain enforcement actions against perishable foods, but it does not specify a deadline for a final regulation.

Section 306 (Maintenance and Inspection of Records for Foods) of the Bioterrorism Act authorizes FDA, by regulation, to require persons that manufacture, process, pack, transport, distribute, receive, hold, or import food to create and maintain records that FDA determines are necessary to identify the immediate previous sources and the immediate subsequent recipients of food (i.e., where it came from and who received it). This would allow FDA to follow up on credible threats of serious adverse health consequences or death to