

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

14 CFR Parts 1, 71, 91, 95, 97, 121, 125, 129, and 135

[Docket No. FAA-2002-14002; Notice No. 02-20]

RIN 2120-AH77

### Area Navigation (RNAV) and Miscellaneous Amendments; Partial Reopening of Comment Period

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

**ACTION:** Notice of proposed rulemaking (NPRM); partial reopening of comment period.

**SUMMARY:** This action reopens the comment period for portions of an NPRM that was published December 17, 2002. In that document, the FAA proposed to amend its regulations to reflect technological advances that support area navigation (RNAV); make certain terms consistent with those of the International Civil Aviation Organization; remove the middle marker as a required component of instrument landing systems; and clarify airspace terminology. This reopening is a result of requests from the regulated public to extend the comment period of the proposal.

**DATE:** Comments must be received on or before July 7, 2003.

**ADDRESSES:** Comments on this document should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA-2002-14002, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: <http://dms.dot.gov> at any time. Commenters

who wish to file comments electronically, should follow the instructions on the DMS Web site.

**FOR FURTHER INFORMATION CONTACT:** Lawrence Buehler, Flight Technologies and Procedures Division, Flight Standards Service, AFS-400, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone: (202) 385-4586.

### SUPPLEMENTARY INFORMATION:

#### Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting this rulemaking action. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** of April 11, 2000 (65 FR 19477-19478), or you may visit <http://dms.dot.gov>.

Before acting on this rulemaking action, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this rulemaking in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this

proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

### Background

On December 17, 2002 (67 FR 77326; Dec. 17, 2002), the FAA issued a proposed rule entitled, "Area Navigation (RNAV) and Miscellaneous Amendments." The comment period closed January 31, 2003. The changes were proposed to facilitate the transition from ground-based navigation to new reference sources, enable advancements in technology, and increase efficiency of the National Airspace System (NAS).

### Today's Action

The FAA has received requests to extend the comment period from Aeronautical Radio Inc., Airline Dispatchers Federation, the Air Transport Association, Alaska Airlines, Boeing, Continental Airlines, Delta Air Lines, Northwest Airlines, the Regional Airline Association, United Parcel Service, and the Aircraft Owners and Pilots Association. Each organization stated that it needed additional time to review the NPRM and formulate its responses. The FAA has also received comments on the proposed amendments to communications and navigation equipment requirements, and instrument approach procedure terminology. These particular comments were substantive and reflected significant public interest in the many areas of the proposed amendments. Based on these considerations, the FAA has determined that it is in the public interest to reopen the comment period for certain portions of the NPRM. However, for reasons discussed below, this docket will remain closed for comments addressing the following proposed amendments:

Part 1—Definitions and Abbreviations, under § 1.1 General definitions, the terms "Air Traffic Service (ATS) route," "Area navigation (RNAV)," "Area navigation (RNAV) route," and "Route segment."

Part 71—Designation of Class A, Class B, Class C, Class D, and Class E Airspace Areas; Air Traffic Service Routes; and Reporting Points, §§ 71.11, 71.13, 71.15, 71.73, 71.75, 71.77, and 71.79.

Part 95—IFR Altitudes, § 95.1.

Part 97—Standard Instrument Procedures, § 97.20.

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.*

[FR Doc. 03-8287 Filed 4-7-03; 8:45 am]

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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](mailto:Kay.Metcalf@noaa.gov); or Glenn Tallia at 301-713-1337, e-mail: [Glenn.E.Tallia@noaa.gov](mailto: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.