

**14 CFR Part 91****[Docket No. 24258; Amdt. No. 91-184]****Flight Limitations in the Proximity of Space Flight Operations****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; request for comments.

**SUMMARY:** This rule clarifies the applicability of the regulation which allows the Administrator to prohibit the operation of aircraft in a space flight recovery area. The amendment eliminates the reference to "recovery" to clarify that the regulation applies to space launch as well as recovery operations. The notice makes no substantive changes to existing law.

**DATES:** *Effective date:* September 27, 1984. Comments concerning provisions of this regulation must be submitted by November 1, 1984.

**ADDRESS:** Send comments on the rule in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24258, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. William C. Davis, Office of Air Traffic Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in this regulatory action by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the above specified address. All communications received on or before the closing date for comments will be considered by the Administrator. Commenters who wish the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is written: "Comments to Docket No. 24258." The

postcard will be date/time stamped and returned to the commenter. The provisions in this rule may be changed in the light of comments received. All comments submitted will be available, both before and after closing date for the comments, in the Rules Docket for examination by interested persons. A report summarizing substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of Document**

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number.

**Background**

On March 18, 1965, the Administrator issued Special Federal Aviation Regulation (SFAR) No. 16 (31 FR 3706), that prohibited the flight of nonparticipating aircraft in recovery areas of the Gemini series of operations. With the completion of the Gemini flights, and after the National Aeronautics and Space Administration (NASA) stated that future space operations would require the same protection as had been provided for the Gemini project, the FAA issued Amendment No. 91-45 (32 FR 14312) on October 11, 1967. That amendment codified the provisions of SFAR No. 16 as Section 91.102 of the Federal Aviation Regulations (14 CFR 91).

**Need for Amendment**

Existing Section 91.102 prohibits the operation of aircraft, with certain exceptions, within areas designated by a Notice to Airmen (NOTAM) for "space flight recovery operations." It is the FAA's interpretation of the quoted provision that the term "recovery" applies not only to end-of-flight recovery, but also to the area designated for emergency recovery during the launch phase of the flight. In the preamble to Amendment No. 91-45, the FAA stated that flight prohibitions may remain in effect during the entire space flight so that the recovery area would be available in the event of an emergency. Emergency recovery operations are an integral part of any space launch operation. For example, if an emergency occurs immediately after a space flight launch from Kennedy Space Center, the space vehicle may have to be recovered offshore in international waters. An

emergency recovery at the NASA Shuttle Landing Facility Airport becomes possible after the vehicle reaches a height that would allow it to glide to a landing. Both eventualities require that airspace around the launch site be protected from intruding aircraft during the launch phase. However, the existing reference in Section 91.102 to "recovery operations" may not constitute adequate notice to pilots that the Section 91.102 airspace restrictions apply during the launch phase of the flight. Since space shuttle operations began, there have been several aircraft incursions into the recovery area. During the space shuttle launch in September 1984, aircraft approached within 5 miles of the launch site, resulting in a launch delay or more than 6 minutes. Similar incidents in the future which might occur due to a misunderstanding of the applicability of Section 91.102 to the launch phases of space flights, could result in costly delays of shuttle operations and in potentially hazardous situations for pilots and space flight crews. Accordingly, the purpose of this action is to remove the potential for misinterpretation by eliminating the reference to "recovery" or any other particular phase of the space flight operation.

**Need for Immediate Adoption**

Because this regulation involves no substantive change from the FAA interpretation of the existing provisions of Section 91.102, and because the amendment will serve to prevent disruption of future space shuttle operations scheduled within the next 2 months, I find that notice and public procedure hereon are not in the public interest and that good cause exists for making the regulation effective immediately.

Because this amendment clarifies the scope of the existing rule, this document involves a rulemaking action which is not a major rule under Executive Order 12291 and is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Further, for these reasons, I certify that, under the criteria of the Regulatory Flexibility Act, the amendment will not have a significant impact on a substantial number of small entities. In addition, the FAA has determined that the expected impact of this amendment is so minimal that it does not require an evaluation.

**List of Subjects in 14 CFR Part 91**

Air traffic control, Aircraft, Aviation safety.

AAT

**The Amendment**

**PART 91—[AMENDED]**

Accordingly, Part 91 of the Federal Aviation Regulations (14 CFR 91) is amended by revising § 91.102 to read as follows:

**§ 91.102 Flight limitation in the proximity of space flight operations.**

No person may operate any aircraft of U.S. registry, or pilot any aircraft under the authority of an airman certificate issued by the Federal Aviation Administration within areas designated in a Notice to Airmen (NOTAM) for space flight operations except when authorized by ATC, or operated under the control of the Department of Defense Manager for Manned Space Flight Support Operations.

(Secs. 307 and 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.45)

Issued in Washington, D.C., on September 25, 1984.

**Donald D. Engen,**  
*Administrator.*

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