Federal Aviation Administration – Regulations and Policies
Aviation Rulemaking Advisory Committee

Air Traffic Issue Area
Special Visual Flight Rules (SVFR) Working Group
**Task 1 – 14 CFR 91.155 and 91.157**

# Task Assignment

[Federal Register: September 20, 1996 (Volume 61, Number 184)]
[Notices]
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DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

# Aviation Rulemaking Advisory Committee; Air Traffic Issues--New Task

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

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

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SUMMARY: Notice is given of new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT:
Reginald C. Matthews, Assistant Executive Director for Air Traffic Issues, Airspace and Rules Division (ATA-400), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

## Background

The **FAA** has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the **FAA** Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the **FAA**'s rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the **FAA**'s commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is air traffic issues. These issues involve the basic visual flight rules (VFR) weather

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minimums and special visual flight rules (SVFR) in 14 CFR part 91.

## The Task

This notice is to inform the public that the **FAA** has asked ARAC to provide advice and recommendation on the following task:

--VFR/SVFR Weather Minimums: Review the existing language in 14 CFR 91.155 and 14 CFR 91.157 to create language that would be more easily understood.

The **FAA** also has asked that ARAC determine if rulemaking action (e.g., NPRM, supplemental NPRM, final rule, withdrawal) should be taken, or advisory material should be issued. If so, ARAC has been asked to prepare the necessary documents, including economic analysis, to justify and carry out its recommendation(s).

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to establish a new SVFR Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the **FAA** as ARAC recommendations.

Working Group Activity

The SVFR Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider air traffic issues held following publication of this notice.
2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.
3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.
4. Provide a status report at each meeting of ARAC held to consider air traffic issues.

Participation in the Working Group

The SVFR Working Group is composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption FOR FURTHER INFORMATION CONTACT expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the **FAA** by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the VFR/SVFR Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to

participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on September 13, 1996.

Reginald C. Matthews,
Assistant Executive Director for Air Traffic Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 96-24067 Filed 9-19-96; 8:45 am]
BILLING CODE 4910-13-M

# Recommendation Letter

Air
Traffic
Control
Association, Inc.

Suite 711
2300 Clarendon Boulevard
Arlington, Virginia 22201

Telephone: (703) 522-5717
FAX: (703) 527-7251

October 15, 1999

Thomas E. McSweeny
Associate Administrator for Regulation
and Certification AVR-1
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Mr. McSweeny,

The Aviation Rulemaking Advisory Committee on Air Traffic Issues has completed its task to clarify language regarding aircraft operating in accordance with Special Visual Flight Rules (SVFR). The group developed and unanimously approved the language in the attached recommended draft Direct Final Rule - Special Visual Flight Rules.

The recommendation is formally forwarded to the FAA for consideration and action as appropriate.

Sincerely,

James L. Crook
Chairman, Air Traffic Issues Group
Air Traffic Control Association

cc: Tony Fazio, ARM-1

# Acknowledgement Letter

U.S. Department
of Transportation

**Federal Aviation
Administration**

800 Independence Ave., S.W.
Washington, D.C. 20591

NOV - 5 1999

Mr. James L. Crook
Vice President Operations
Air Traffic Control Association, Inc.
2300 Clarendon Blvd.
Arlington, VA 22201

Dear Mr. Crook:

Thank you for your October 15, 1999 letter forwarding the Aviation Rulemaking Advisory Committee (ARAC) recommendation regarding the Special Visual Flight Rules (SVFR) direct final rule.

The recommendation will be presented to the Federal Aviation Administration's (FAA) management as soon as possible. If management agrees with the recommendation, a direct final rule will be issued regarding the SVFR recommendation.

I would like to thank the aviation community for its commitment to ARAC and its expenditure of resources in the development of this recommendation. More specifically, I would like to thank the Special Visual Flight Rules Working Group for its commitment to the ARAC process and prompt action on this task.

Sincerely,

Margaret Gilligan

for Thomas E. McSweeny
Associate Administrator for
Regulation and Certification

# Recommendation

[4910-13]

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 91**

**[Docket No. ; Amendment No. 91- ]**

**RIN: 2120-**

**Special Visual Flight Rules**

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

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends and clarifies language regarding aircraft operating in accordance with Special Visual Flight Rules (SVFR). Specifically, this action will permit a pilot at a satellite airport to depart provided that the pilot determines that he has the requisite flight visibility. The FAA is taking this action to reduce the number of unnecessary flight delays being faced by general aviation aircraft while providing an equivalent level of safety.

**EFFECTIVE DATE:** Effective [*insert date* 30 *days after date of publication in the* Federal Register].

Comments must be received by [*insert date 30 days after date of publication in the* Federal Register].

**ADDRESSES:** Comments on this document should be mailed or delivered, in duplicate, to: United States Department of

Transportation Dockets, Docket No. FAA-1999-NNNN, 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/. Commenters who wish to file comments electronically should follow the instruction on the DMS web site.

**FOR FURTHER INFORMATION CONTACT:** Avis P. Person, Airspace and Rules Division (ATA-400), Air Traffic Airspace Management Program, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**Direct Final Rule Procedure**

The FAA anticipates that this regulation will not result in adverse or negative comments; therefore, the FAA is issuing it as a direct final rule. The amendment was recommended by the Aviation Rulemaking Advisory Committee (ARAC) with no dissenting opinions. In addition, the FAA believes that the amendment will be well received by the public.

Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative

comment is received on this direct final rule within the comment period, the regulation will become effective on the date specified. After the close of the comment period, the FAA will publish a document in the Federal Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective.

If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking (NPRM) may be published with a new comment period.

**Comments Invited**

Although this action is in the form of a final rule and was not preceded by an NPRM, comments are invited on this document. Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or

notice number and be submitted in duplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator. Comments filed late will be considered to the extent practicable. The proposals in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. [FAA-1999-NNNN]." The postcard will be date stamped and mailed to the commenter.

**Availability of Final Rules**

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone (703) 321-3339), the Government Printing Office's electronic bulletin board service (telephone (202) 512-1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm 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 document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9680. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**Small Entity Inquiries**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at

http://www.faa.gov and may send electronic inquiries to the following Internet address: 9-AWA-SBREFA@faa.gov.

**Background**

This rule is being issued to clarify certain revisions to § 91.155 that were adopted pursuant to the "Airspace Reclassification; Final Rule" (56 FR 65638, December 17, 1991). The current language of § 91.155 has caused confusion as to the application of Visual Flight Rules (VFR) weather minimums in controlled airspace at satellite airports, and prompted numerous inquiries and requests for clarification.

On January 9, 1995, the FAA requested that the Aviation Rulemaking Advisory Committee on Air Traffic Issues (ARAC) review §§ 91.155 and 91.157 and recommend language that would be more easily understood by the aviation community. In response, the ARAC established a working group composed of representatives from the Air Traffic Control Association, Inc. (ATCA), the Aircraft Owners and Pilots Association (AOPA), the Experimental Aircraft Association (EAA), the Helicopter Association International (HAI), and the National Business Aviation Association (NBAA) to review this matter. As a result of its' review of §§ 91.155 and 91.157, the working group concluded that misunderstandings occur when applying the visibility minimums on the ground to SVFR operations, specifically when pilots are operating from a

satellite airport. A satellite airport, is an airport that exists within the same airspace area as the primary airport that determines the airspace designation. Special VFR operations means aircraft operating in accordance with clearances within controlled airspace in meteorological conditions less than the basic VFR weather minimums. The ARAC recommended that the FAA resolve the problem by permitting part 91 general aviation pilots to determine whether visibility minimums exist for SVFR departure at satellite airports when ground visibility is not reported from the primary airport.

Under current rules, an SVFR clearance must be requested and approved by the nearest air traffic control (ATC) facility to operate within a Class B, C, D, or E surface area when the weather does not meet VFR flight weather minimums. This clearance allows operations below 10,000 feet mean sea level (MSL) within the lateral boundaries of a controlled airspace surface area, with limited exceptions, provided the following conditions are satisfied: (1) the pilot receives a clearance from ATC; (2) the pilot remains clear of clouds; (3) SVFR operations are conducted only between sunrise and sunset; and (4) the ground visibility report indicates that at least 1 statute mile of visibility exists. If ground visibility is not

reported, flight visibility must be reported to be at least 1 statute mile.

Although flight visibility may be determined by a pilot from the cockpit while an aircraft is airborne, the current rules do not permit ground visibility to be determined by a pilot on the ground. Ground visibility is defined in 14 CFR 21.1 as the prevailing horizontal visibility near the Earth's surface as reported by the United States Weather Service or an accredited weather observer. Because ground visibility is considered an official report, pilots and air traffic controllers are more likely to rely on a ground visibility report than a flight visibility report as reported by a pilot. But in the absence of a ground visibility report, § 91.157(c)(2) currently allows a pilot departing under SVFR to rely on a flight visibility report, which may have been reported by a pilot in flight who is not required to be an official weather observer.

**Discussion of the Recommendation**

To clarify any confusion, the ARAC working group recommended that the FAA permit those part 91 general aviation pilots operating in accordance with part 91 to determine whether visibility minimums exist for SVFR departure at satellite airports when ground visibility is not reported from the primary airport. The working group rationale is that there is little difference between a

pilot's ability to determine visibility in flight versus on the ground.

The FAA has reviewed and accepted the ARAC recommendation with caveats and is amending § 91.157 to allow pilots to determine if visibility weather minimums exist on the ground for SVFR departure when the airport of departure (i.e., satellite airport) does not have weather reporting capabilities. However, the pilot's visibility determination on the ground for SVFR departure is not an official ground visibility report. Also, the pilot's report is not equivalent to that of an official weather observer. Therefore, the rule intentionally expands the term "flight visibility" as opposed to "ground visibility" for the purposes of SVFR departure.

This action is intended to reduce unnecessary delays for part 91 operations and clarify the appropriate means of determining ground visibility reports for SVFR departure from satellite airports when that airport does not have weather reporting capabilities.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction of 1995 (44 U.S.C. 3507(d)), there are no requirements for information collection associated with this rule.

**International Compatibility**

The FAA has reviewed corresponding International Civil Aviation Organization international standards and recommended practices and Joint Aviation Authorities regulations, where they exist, and has identified no differences in these proposed amendments and the foreign regulations.

**Regulatory Evaluation Summary**

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this direct final rule: (1) will generate benefits that justify its costs and is not a "significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will not constitute a barrier to international trade; and (5)

will not contain any Federal intergovernmental or private sector mandates. These analyses are presented here in the preamble.

This direct final rule allows pilots who are on the ground (in controlled air space at satellite airports) to determine whether visibility conditions meet or exceed the minimums necessary to allow flight departure under special visual flight rules (SVFR) when these satellite airports do not have weather reporting capabilities. Previously, if satellite airports were experiencing weather conditions that would have permitted takeoff under SVFR, the pilot was required to delay departure until either the weather conditions improved at the primary airport or the pilot received a flight visibility report indicating at least 1 statute mile of visibility. This direct final rule will clarify the language regarding departure under SVFR and reduce the number of unnecessary flight delays while providing an equivalent level of safety.

The direct final rule is expected to impose no costs on the FAA or airspace users since no additional resources will be needed to implement this rule. In fact, the direct final rule may reduce the unnecessary number of flight delays, however, information is not available to calculate this number. The FAA contends that safety will not be adversely affected as a result of this rulemaking.

In view of the fact that this direct final rule will result in potential cost-savings, while maintaining an equivalent level of safety, the FAA has determined that this direct final rule will be cost-beneficial.

**Final Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule has a significant economic impact on a substantial number of small business entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes threshold costs and small entity size standards for complying with RFA requirements.

**International Trade Impact Assessment**

The provisions of this rule will have little impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

**Federalism Implications**

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance

with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect

small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This direct final rule does not contain any Federal intergovernmental or private sector mandate that exceeds $100 million a year.

**Agency Findings**

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Air Traffic Control, Aircraft, Airplanes, Airports, Airspace, Weather.

## The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of Title 14, Code of Federal Regulations (14 CFR part 91) as follows:

**PART 91 — AIR TRAFFIC AND GENERAL OPERATING RULES**

1. The authority citation for part 91 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506, 47122, 47508, and 47528-47531.

2. Section 91.157(c) is revised as follows:

**§ 91.157 Special VFR weather minimums.**

* * * * *

(c) * * *

(2) If ground visibility is not reported, unless flight visibility is at least 1 statute mile. For the purposes of this paragraph, the term flight visibility includes the visibility from the cockpit of an aircraft in takeoff position.

* * * * *

Issued in Washington, DC on

Jane F. Garvey

**Administrator**

FAA Action – Not Available