

is posted on the federal docket. It can found by searching docket number 12261 at <http://dms.dot.gov>.

2. A commenter recommended that the FAA should implement RVSM between FL 290–370 in December 2004 to allow access to higher flight levels for non-compliant aircraft.

*FAA Response:* We did not accept this recommendation for two reasons. First, during the simulation testing, an increase of non-compliant aircraft transitioning through RVSM flight levels to fly above RVSM airspace increased complexity of ATC operations and increased the potential for controller error. The proposal to implement between FL 290–410 provides for a limited number of operations at or above FL 430. Second, topping RVSM flight levels at FL 370 would make two flight levels (380 and 400) unavailable at implementation. This loss would diminish benefits in terms of fuel savings and improvements to air traffic controller flexibility to manage aircraft.

3. Some commenters recommended that we should implement RVSM only on designated routes or in certain areas.

*FAA Response:* We concluded that this proposal is not feasible for the same reasons that a vertical phase-in of RVSM flight levels is not feasible. A plan that would provide multiple areas within domestic U.S. airspace where the vertical separation standards would change between 2,000 feet to 1,000 feet would add an unacceptable amount of complexity to air traffic control and increase controller workload and the potential for controller error.

4. Some commenters, including ALPA and APA, opposed tactical implementation, citing concerns about complexity and safety. They also raised a question about applying the monitoring program before full implementation.

*FAA Response:* We explored allowing controllers to apply “tactical RVSM” prior to the target RVSM implementation date. We have decided not to pursue this initiative. It has been found to present unacceptable difficulties related to scheduling and completing document updates and controller and pilot training. Application of tactical RVSM would have allowed controllers to use 1,000-foot vertical separation between FL 290 and FL 410 prior to the target implementation date, at the controller’s discretion, if both passing aircraft were RVSM approved.

5. A Congressman asked us to re-evaluate our plan to implement RVSM in all Alaskan airspace. One operator, Security Aviation, made a similar request. More specifically, the

Congressman and Security Aviation requested us to consider implementing in Alaska on only designated routes or areas. The rationale was that RVSM invoked large costs to small Alaskan operators and that operation below FL 290 invoked operational penalties.

*FAA response:* We believe RVSM implementation in Alaska should proceed on the same date and with the same implementation plan that we are adopting for the lower 48 states and Canadian Southern Domestic airspace. We do not believe RVSM can or should be implemented in Alaskan airspace differently than the surrounding RVSM airspace. RVSM is currently mandated in oceanic airspace to the west and south of Alaska and in Canadian Northern Domestic airspace to the east. In addition, Canadian authorities plan to implement RVSM in Canadian Southern Domestic airspace in January 2005 in conjunction with implementation in the U.S.

In summary, we believe we should implement RVSM in Alaskan airspace in conjunction with the domestic U.S. and Canada for the following reasons:

a. Alaskan RVSM operations cannot be considered in isolation. Alaska is surrounded on three sides by existing RVSM airspace. Operators flying between those airspaces and Alaskan airspace are required to meet RVSM standards. If we do not implement RVSM in Alaska in conjunction with the U.S. lower 48 states and Canada, it will deny benefits to these operators.

b. Implementing a single vertical separation standard in Alaska mitigates problems related to air traffic control complexity and to the potential for controller error both within Alaskan airspace and for operations between Alaska and adjoining RVSM airspace.

c. This rule does not affect operations below FL 290. Operators that now operate below FL 290 can continue to operate as they do currently. Operators that now operate above FL 290 that do not elect to obtain RVSM authority can continue to operate below FL 290. Operation below FL 290 appears feasible since typical leg lengths for flights originating and terminating within Alaska are relatively short duration (1 to 2 hour flights).

6. ATA asked us to implement RVSM in the San Juan FIR and Miami Offshore airspace where the FAA provides air traffic control. The objective would be to align this airspace with RVSM airspace already planned or implemented in adjoining airspace.

*FAA Response:* We concluded that this proposal had merit and made a proposal in a Supplemental NPRM (SNPRM). The SNPRM proposed to

include Atlantic High Offshore, Gulf of Mexico High Offshore Airspace, and the San Juan FIR airspace as RVSM airspace in part 91, Appendix G, Section 8 (Airspace Designation). A number of SNPRM commenters supported and no SNPRM commenters opposed the proposal. We have adopted the SNPRM proposal in the final rule.

7. APA recommended that we should require RVSM in Hawaiian airspace at and above FL 290.

*FAA Response:* We do not believe that it is necessary to mandate RVSM in Hawaiian airspace at this time. Hawaiian airspace has operated successfully in its present configuration as transition airspace between adjoining flight information regions where RVSM is mandated since February 2000.

8. One commenter recommended that we should consider Domestic RVSM in the Airspace Re-design program.

*FAA Response:* We are considering RVSM in the High Altitude Redesign program.

9. GAMA, Bombardier, Raytheon and Cessna recommended that provisions be made in the rule for accommodation of non-compliant aircraft flown for flight testing for certification, new aircraft production and customer acceptance purposes.

They requested rule language as follows:

- Accommodate air ambulance flights using Lifeguard call sign as detailed in AIM.

- Provide for flight in RVSM airspace under special flight permit or standard certificate of airworthiness of non-compliant experimental, new production flight test, new production aircraft flown for customer acceptance purposes

- Provide for experimental and new production aircraft to climb to FL 430 without “traffic permitting” caveat

They also proposed that the FAA designate useable airspace within proximity to aircraft manufacturers.

*FAA Response:* We believe that the language in part 91, Appendix G, Section 5 (Deviation Authority Approval), will provide for FAA authorization of operation of non-compliant aircraft in RVSM airspace. We recognize that the organizations that made this proposal are seeking assurance that they will be able to fly non-compliant aircraft in RVSM airspace for the purposes of flight-testing for certification and customer acceptance purposes. We recognize that this is an important provision for aircraft manufacturers to conduct their business. We believe that Section 5 enables aircraft manufacturers to work with local ATC Centers to develop