

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 99

[Docket No. 25113; Amdt. 99-13]

**Security Control of Air Traffic;
Modification of the U.S. Air Defense
Identification Zones (ADIZ)****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Final rule; request for
comments.**SUMMARY:** This action amends Part 99 of
the Federal Aviation Regulations by
changing the lateral boundaries of
ADIZ's around the Continental U.S.,
Alaska, and Guam. Additionally, this
action makes editorial changes and
deletes references to Distant Early
Warning Identification Zones (DEWIZ),
Domestic ADIZ's, and Coastal ADIZ's.
The action is taken at the request of the
Department of Defense for reasons of
national security.**DATES:** *Effective date:* June 30, 1988.*Comment date:* Comments must be
received by August 15, 1988.**ADDRESSES:** Comments may be mailed
or delivered in duplicate to: Federal
Aviation Administration, Office of Chief
Counsel, Attention: Rules Docket (AGC-
204), Docket No. [25113], 800
Independence Avenue, SW., Washington,
DC 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. Reginald C. Matthews, Air Traffic
Rules Branch, ATO-230, Federal
Aviation Administration, 800
Independence Avenue, SW.,
Washington, DC 20591, telephone (202)
267-8783.**SUPPLEMENTARY INFORMATION:****Comments Invited**

Even though this action is in the form
of a final rule which involves airspace
modifications and was not preceded by
notice and public procedure, comments
are invited on the rule. Interested
persons are invited to comment on this
rule by submitting such written data,
views, or arguments as they may desire
on any portion of the rule. When the
comment period ends, the FAA will use
the comments submitted together with
other available information, to review
the regulations. After the review, if the
FAA finds that changes are appropriate,
it will initiate rulemaking proceedings to
amend the regulations. Comments that
provide the factual basis supporting the

views and suggestions presented are
particularly helpful in evaluating the
effects of the rule and determining
whether additional rulemaking is
needed. Persons wishing the FAA to
acknowledge receipt of their comments
submitted in response to this final rule
must submit with those comments a self-
addressed, stamped postcard on which
the following statement is made:
"Comments to Docket No. 25113." The
postcard will be date/time stamped and
returned to the commenter. All
comments submitted will be available,
both before and after the closing date
for comments, in the Rules Docket for
examination by interested persons. A
report summarizing each substantive
public contact with FAA personnel
concerned with this rulemaking will be
filed in the docket.

Background

Air defense identification zones
(ADIZ) are areas of airspace primarily
over international waters, that are
established to facilitate the monitoring
of aircraft operations for national
security and other purposes.

On October 23, 1986, the FAA
received a petition from the U.S. military
Joint Chiefs of Staff to initiate
rulemaking action in order to amend
portions of the Pacific and Gulf of
Mexico Coastal ADIZ's by deleting
those areas that lay south of the U.S.
border with the Republic of Mexico.

Subsequent requests, the latest of
which was received in December 1987,
amended to original petition for
realignment by requesting the
realignment of Alaska DEWIZ to include
the Aleutian Islands. Additionally, the
Joint Chiefs of Staff requested that the
FAA make editorial name changes to
delete ambiguous terms such as Coastal,
Gulf, Domestic, Pacific, and Distant
Early Warning when referring to the
different areas and, for standardization
purposes, use the single term Air
Defense Identification Zones. The ADIZ
realignment was developed in support of
the North American Defense Command
(NORAD) mission of controlling access
to sovereign airspace and peacetime
mission of national security.

Additionally, the U.S. Air Force
requested by letter dated September 29,
1987, that the FAA realign the Guam
ADIZ. This request for a rule
amendment is based on the increase in
the level of potential threats to U.S.
government personnel and facilities on
the island of Guam.

The Department of Defense (DOD) by
letter dated April 19, 1988, requested the
FAA to upgrade the priority of the ADIZ
petition and asked that the

implementation of the ADIZ realignment
be expedited.

Discussion

The FAA has reviewed the requests
for amendment to Part 99 and finds that
amendment to the ADIZ boundaries in
Part 99 of the Federal Aviation
Regulations is necessary to reconcile
issues of Mexican sovereign airspace
specifically, the alteration of the ADIZ
in the Gulf of Mexico and in the
southwest portion of the U.S., off the
coast of lower California, aligns the
ADIZ so that it does not extend into the
sovereign airspace of the Republic of
Mexico.

The alteration of the existing ADIZ
boundaries in the Alaskan area would
alleviate current flight plan and position
reporting requirements for those pilots
conducting operations in the Aleutian
Island chain who presently depart some
of the island airports and routinely must
exit and reenter the ADIZ. Additionally,
this amendment will eliminate a gap in
the ADIZ on the western shore of
Canada by providing a continuous ADIZ
between the U.S. airspace and the
Canadian Domestic ADIZ.

In regard to the requested
modification of the Guam ADIZ, the
FAA agrees with the DOD that an inner
ADIZ for the defense of the Mariana
Islands is necessary. Such an ADIZ will
facilitate the implementation of new air
defense procedures without causing any
undue interference with local air traffic.

Additionally, the FAA concurs with
the DOD in the simplification of the
nomenclature of ADIZ's by removing
references to specific types and location
names of ADIZ's. To accommodate the
simplification aspect, minor editorial
changes are necessary in the following:
Sections 99.11, 99.13, 99.17, 99.19, 99.21,
99.23, 99.25, 99.43, 99.45, and 99.47.

The DOD has requested
implementation of the revised
boundaries of the ADIZ at the earliest
possible date which would permit
inclusion of the action in revised
aeronautical charts to be issued on June
30, 1988. In response to the DOD
assessment of the importance of the
ADIZ realignment for national defense
objectives, the FAA finds that further
delay in the implementation of the rule
for public notice and comment under 5
U.S.C. 553 is impracticable and contrary
to the public interest. Further, the FAA
notes that a change in the ADIZ
boundaries, primarily over international
waters, is not the type of action which
would normally involve public comment
but for the change in the descriptive
language in FAR Part 99. Neither the
ADIZ action nor the editorial revisions

See also
99-13a
99-13b

affect in any way the operating procedures which apply in the ADIZ or affect designations of controlled airspace or special use airspace. Notwithstanding the minimal impact of this action, the FAA is requesting comments on the final rule. Comments received will be used in determining whether additional rulemaking is needed.

For the above reasons the FAA has determined that this action is not a "major rule" under Executive Order 12291; is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and does not warrant preparation of a regulatory evaluation as the overall impact on users of the system is to be minimal.

Federalism Determination

The amendment set forth herein would 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. The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which has been construed to preempt state law regulating the same subject. Therefore, in accordance with Executive Order 12612, it is determined that such a regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has also consulted with the Department of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854 inasmuch as this amendment involves airspace outside of the United States.

Adoption of the Amendment

Accordingly, Part 99 of the Federal Aviation Regulations (14 CFR Part 99) is amended, effective 0901 u.t.c., June 30, 1988, as follows:

The Amendment

For the above reasons the FAA revises FAR Part 99 (14 CFR Part 99) as follows:

PART 99—SECURITY CONTROL OF AIR TRAFFIC

Subpart A—General

Sec.	
99.1	Applicability.
99.3	General.
99.5	Emergency situations.
99.7	Special security instructions.
99.9	Radio requirements.

Sec.	
99.11	ADIZ flight plan requirements.
99.15	Arrival or completion notice.
99.17	Position reports; aircraft operating in or penetrating an ADIZ; IFR.
99.19	Position reports; aircraft operating in or penetrating an ADIZ; DVFR.
99.21	Position reports; aircraft entering the United States through an ADIZ; U.S. aircraft.
99.23	Position reports; aircraft entering the United States through an ADIZ; foreign aircraft.
99.27	Deviation from flight plans and ATC clearances and instructions.
99.29	Radio failure; DVFR.
99.31	Radio failure; IFR.

Subpart B—Designated Air Defense Identification Zones

99.41	General.
99.42	Conterminous U.S. ADIZ.
99.43	Alaska ADIZ.
99.45	Guam ADIZ.
99.47	Hawaii ADIZ.
99.49	Defense Area.

Authority: 49 U.S.C. 1348, 1354(a), 1502, 1510, and 1522; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

Subpart A—General

§ 99.1 Applicability.

(a) This subpart prescribes rules for operating civil aircraft in a defense area, or into, within, or out of the United States through an Air Defense Identification Zone (ADIZ), designated in Subpart B.

(b) Except for § 99.7, this subpart does not apply to the operation of an aircraft—

(1) In an ADIZ north of 30 degrees north latitude or west 86 degrees west latitude at a true airspeed of less than 180 knots;

(2) In the Alaskan ADIZ at a true airspeed of less than 180 knots while the pilot maintains a continuous listening watch on the appropriate frequency;

(3) From any point in the 48 contiguous States on an outbound track through the Southern Border ADIZ;

(4) Within the 48 contiguous States and the District of Columbia, or within the State of Alaska, which remains within 10 nautical miles of the point of departure; or

(5) Over any island, or within 3 nautical miles of the coastline of any island, in the Hawaiian ADIZ.

(c) Except as provided in § 99.7, the radio and position reporting requirements of this subpart do not apply to the operation of an aircraft within the 48 contiguous States and the District of Columbia, or within the State of Alaska, if that aircraft does not have two-way radio and is operated in accordance with a filed DVFR flight plan containing the time and point of ADIZ penetration and that aircraft

departs within 5 minutes of the estimated departure time contained in the flight plan.

(d) An FAA ATC center may exempt the following operations from this subpart (except Section 99.7), on a local basis only, with the concurrence of the military commanders concerned:

(1) Aircraft operations that are conducted wholly within the boundaries of an ADIZ and are not currently significant to the air defense system.

(2) Aircraft operations conducted in accordance with special procedures prescribed by the military authorities concerned.

§ 99.3 General.

(a) The Air Defense Identification Zone (ADIZ) is an area of airspace over land or water in which the ready identification, location, and control of civil aircraft is required in the interest of national security.

(b) Unless designated as an ADIZ, a Defense Area is any airspace of the United States in which the control of aircraft is required for reasons of national security.

(c) For the purposes of this Part, a Defense Visual Flight Rules (DVFR) flight is a flight within an ADIZ conducted under the visual flight rules in Part 91.

§ 99.5 Emergency situations.

In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from the rules in this Part to the extent required by that emergency. He shall report the reasons for the deviation to the communications facility where flight plans or position reports are normally filed (referred to in this Part as "an appropriate aeronautical facility") as soon as possible.

§ 99.7 Special security instructions.

Each person operating an aircraft in an ADIZ or Defense Area shall, in addition to the applicable rules of this Part, comply with special security instructions issued by the Administrator in the interest of national security and that are consistent with appropriate agreements between the FAA and the Department of Defense.

§ 99.9 Radio requirements.

Except as provided in § 99.1(c), no person may operate an aircraft in an ADIZ unless the aircraft has a functioning two-way radio.

§ 99.11 ADIZ flight plan requirements.

(a) No person may operate an aircraft in or penetrate an ADIZ unless that

person has filed a flight plan with an appropriate aeronautical facility.

(b) Unless ATC authorizes an abbreviated flight plan—

(1) A flight plan for IFR flight must contain the information specified in § 91.83; and

(2) A flight plan for VFR flight must contain the information specified in § 91.83(a) (1) through (7).

(3) If airport of departure is within the Alaskan ADIZ and there is no facility for filing a flight plan then:

(i) Immediately after takeoff or when within range of an appropriate aeronautical facility, comply with provisions of paragraph (b)(1) or (b)(2) as appropriate.

(ii) Proceed according to the instructions issued by the appropriate aeronautical facility.

(c) The pilot shall designate a flight plan for VFR flight as a DVFR flight plan.

§ 99.15 Arrival or completion notice.

The pilot in command of an aircraft for which a flight plan has been filed shall file an arrival or completion notice with an appropriate aeronautical facility, unless the flight plan states that no notice will be filed.

§ 99.17 Position reports; aircraft operating in or penetrating an ADIZ; IFR.

The pilot of an aircraft operating in or penetrating an ADIZ under IFR—

(a) In controlled airspace, shall make the position reports required in § 91.125; and

(b) In uncontrolled airspace, shall make the position reports required in § 99.19.

§ 99.19 Position reports; aircraft operating in or penetrating an ADIZ; DVFR.

No pilot may operate an aircraft penetrating an ADIZ under DVFR unless—

(a) That pilot reports to an appropriate aeronautical facility before penetration: The time, position, and altitude at which the aircraft passed the last reporting point before penetration and the estimated time of arrival over the next appropriate reporting point along the flight route;

(b) If there is no appropriate reporting point along the flight route, that pilot reports at least 15 minutes before penetration: The estimated time, position, and altitude at which he will penetrate; or

(c) If the airport departure is within an ADIZ or so close to the ADIZ boundary that it prevents his complying with paragraphs (a) or (b) of this section, that pilot has reported immediately after taking off: the time of departure,

altitude, and estimated time of arrival over the first reporting point along the flight route.

§ 99.21 Position reports; aircraft entering the United States through an ADIZ; United States aircraft.

The pilot of an aircraft entering the United States through an ADIZ shall make the reports required in §§ 99.17 or 99.19 to an appropriate aeronautical facility.

§ 99.23 Position reports; aircraft entering the United States through an ADIZ; foreign aircraft.

In addition to such other reports as ATC may require, no pilot in command of a foreign civil aircraft may enter the U.S. through an ADIZ unless that pilot makes the reports required in §§ 99.17 or 99.19 or reports the position of the aircraft when it is not less than one hour and not more than 2 hours average cruising distance from the United States.

§ 99.27 Deviation from flight plans and ATC clearances and instructions.

(a) No pilot may deviate from the provisions of an ATC clearance or ATC instruction except in accordance with § 91.75 of this chapter.

(b) No pilot may deviate from the filed IFR flight plan when operating an aircraft in uncontrolled airspace unless that pilot notifies an appropriate aeronautical facility before deviating.

(c) No pilot may deviate from the filed DVFR flight plan unless that pilot notifies an appropriate aeronautical facility before deviating.

§ 99.29 Radio failure; DVFR.

If the pilot operating an aircraft under DVFR in an ADIZ cannot maintain two-way radio communications, the pilot may proceed in accordance with original DVFR flight plan or land as soon as practicable. The pilot shall report the radio failure to an appropriate aeronautical facility as soon as possible.

§ 99.31 Radio failure; IFR.

If a pilot operating an aircraft under IFR in an ADIZ cannot maintain two-way radio communications, the pilot shall proceed in accordance with § 91.127 of this chapter.

Subpart B—Designated Air Defense Identification Zones

§ 99.41 General.

The airspace above the areas described in this subpart is established as an ADIZ Defense Area. The lines between points described in this subpart are great circles except that the lines joining adjacent points on the same parallel of latitude are rhumb lines.

§ 99.42 Conterminous U.S. ADIZ.

The area bounded by a line 26°00'N, 96°35'W; 26°00'N, 95°00'W; 26°30'N, 95°00'W; then along 26°30'N to; 26°30'N, 84°00'W; 24°00'N, 83°00'W; 24°00'N, 80°00'W; 24°00'N, 79°25'W; 25°40'N, 79°25'W; 27°30'N, 78°50'W; 30°45'N, 74°00'W; 39°30'N, 63°45'W; 43°00'N, 65°48'W; 41°15'N, 69°30'W; 40°32'N, 72°15'W; 39°55'N, 73°00'W; 39°38'N, 73°00'W; 39°36'30"N, 73°40'30"W; 39°30'N, 73°45'W; 37°00'N, 75°30'W; 36°10'N, 75°10'W; 35°10'N, 75°10'W; 32°01'N, 80°32'W; 30°50'N, 80°54'W; 30°05'N, 81°07'W; 27°59'N, 79°23'W; 24°49'N, 80°00'W; 24°49'N, 80°55'W; 25°10'N, 81°12'W; then along a line 3 nautical miles from a shoreline to; 25°45'N, 81°27'W; 25°45'N, 82°07'W; 28°55'N, 83°30'W; 29°20'N, 85°00'W; 30°00'N, 86°00'W; 30°00'N, 88°30'W; 29°00'N, 89°00'W; 28°45'N, 90°00'W; 29°26'N, 94°00'W; 28°42'N, 95°17'W; 28°05'N, 96°30'W; 26°25'N, 96°30'W; 26°00'N, 96°35'W; 25°58'N, 97°07'W; then westward along the Mexican Border to 32°32'03"N, 117°07'25"W; 32°30'N, 117°20'W; 32°00'N, 118°24'W; 30°45'N, 120°50'W; 29°00'N, 124°00'W; 37°42'N, 130°40'W; 48°20'N, 132°00'W; 48°20'N, 128°00'W; 48°30'N, 125°00'W; 48°29'38"N, 124°43'35"W; 48°00'N, 125°15'W; 46°15'N, 124°30'W; 43°00'N, 124°40'W; 40°00'N, 124°35'W; 38°50'N, 124°00'W; 34°50'N, 121°10'W; 34°00'N, 120°30'W; 32°00'N, 118°24'W; 32°30'N, 117°20'W; 32°32'03"N, 117°07'25"W.

§ 99.43 Alaska ADIZ.

The area bounded by a line 54°00'N, 136°00'W; 56°57'N, 144°00'W; 57°00'N, 145°00'W; 53°00'N, 158°00'W; 50°00'N, 169°00'W; 50°00'N, 180°00'; 50°00'N, 170°00'E; 53°00'N, 170°00'E; 60°00'N, 180°00'; 65°00'N, 169°00'W; then along 169°00'W to; 75°00'N, 169°00'W; then along the 75°00'N parallel to; 75°00'N; 141°00'W to; 69°50'N, 141°00'W; 71°18'N, 156°44'W; 69°52'N, 163°00'W; then south along 163°00'W to; 54°00'N, 163°00'W; 56°30'N, 154°00'W; 59°20'N, 146°00'W; 59°30'N, 140°00'W; 57°00'N, 136°00'W; 54°35'N, 133°00'W; to point of beginning.

§ 99.45 Guam ADIZ.

(a) *Inner boundary.* From a point 13°52'07"N, 143°59'16"E, counterclockwise along the 50-nautical-mile radius arc of the NIMITZ VORTAC (located at 13°27'11"N, 144°43'51"E); to a point 13°02'08"N, 145°28'17"E; then to a point 14°49'07"N, 146°13'58"E; counterclockwise along the 35-nautical-mile radius arc of the SAIPAN NDB (located at 15°06'46"N, 145°42'42"E); to a point 15°24'21"N, 145°11'21"E; then to the point of origin.

(b) *Outer boundary.* The area bounded by a circle with a radius of 250 NM centered at latitude 13°32'41"N, longitude 144°50'30"E.

§ 99.47 Hawaii ADIZ.

(a) *Outer boundary.* The area included in the irregular octagonal figure formed by a line connecting 26°30'N, 156°00'W; 26°30'N, 161°00'W; 24°00'N, 164°00'W;

20°00'N, 164°00'W; 17°00'N, 160°00'W; 17°00'N, 156°00'W; 20°00'N, 153°00'W; 22°00'N, 153°00'W; to point of beginning.

(b) *Inner boundary.* The inner boundary to follow a line connecting 22°30'N, 157°00'W; 22°30'N, 160°00'W; 22°00'N, 161°00'W; 21°00'N, 161°00'W; 20°00'N, 160°00'W; 20°00'N, 156°30'W; 21°00'N, 155°30'W; to point of beginning.

§ 99.49 Defense Area.

All airspace of the United States is designated as Defense Area except the airspace already designated as Air Defense Identification Zone.

Issued in Washington, DC, on May 13, 1988.

T. Allan McArtor,
Administrator.

[FR Doc. 88-11191 Filed 5-17-88; 12:30 pm]

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