

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 91****[Docket No. 28690; Special Federal Aviation Regulation (SFAR) No. 76]****RIN 2120-AG28****Prohibition Against Certain Flights Within the Territory and Airspace of Iran****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This action prohibits flight operations within the territory and airspace of Iran by any United States air carrier or commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA except persons operating U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. Increased military presence and activity adjacent to civilian air traffic corridors in Iran have increased the potential threat to civil aircraft overflying the area. Therefore, this action is taken to prevent an undue hazard to persons and U.S.-registered aircraft overflying the area as a result of the ongoing activity in that area.

DATES: This SFAR is effective September 17, 1996, and shall remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Patricia Lane, Airspace and Air Traffic Law Branch, AGC-230, or Mark W. Bury, International Affairs and Legal Policy Staff, AGC-7, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267-3515.

SUPPLEMENTARY INFORMATION:**Availability of Document**

An electronic copy of this document may be down loaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339), the Federal Register's electronic bulletin board service (telephone: 202-512-1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: 202-267-5948).

Internet users may reach the FAA's web page at <http://www.faa.gov> or the Federal Register's webpage at http://www.access.gpo.gov/su_docs 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, Attention: ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9677. Communications must identify the number of this SFAR.

Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and for the safety of U.S.-registered aircraft and U.S. operators throughout the world. Section 40101(d)(1) of Title 49, United States Code, requires the Administrator of the FAA to consider the regulation of air commerce in a manner that best promotes safety and fulfills the requirements of national security as being in the public interest. Section 44701(a) of Title 49, United States Code, provides the FAA with broad authority to carry out this policy by prescribing regulations governing the practices, methods, and procedures necessary to ensure safety in air commerce.

In mid-September 1996, Iran established an I-HAWK surface-to-air missile launch site near the Iran-Turkey border. This new active SAM site is located approximately seven miles southeast of Uromiyeh Airfield (37°40'N/04°50'4"E). In the exercise of these statutory responsibilities, the FAA has determined that the presence of the missile launch site in proximity to civilian air traffic corridors has increased the potential threat to civil aircraft and justifies the imposition of certain measures to ensure the safety of U.S.-registered aircraft and operators that are conducting flight operations in the vicinity of the territory and airspace of Iran.

Prohibition Against Certain Flights Within the Territory and Airspace of Iran

On the basis of the above information, and in furtherance of my responsibilities to promote the safety of flight of civil aircraft in air commerce, I have determined that immediate action by the FAA is required to prevent the injury or loss of certain U.S.-registered aircraft and U.S. operators conducting flights in the vicinity of Iran. I find that the presence of an active I-HAWK surface-to-air missile launch site in close proximity to civilian air traffic

corridors has increased the potential threat to civil aircraft overflying the territory and airspace of Iran. Accordingly, I am ordering a prohibition of flight operations within the territory and airspace of Iran by any United States carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA except persons operating U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is necessary to prevent an undue hazard to U.S.-registered aircraft and to protect persons on board that aircraft. Operations approved by the Administrator, or by another agency of the United States Government with FAA approval and certain emergency operations shall be excepted from the prohibition. Because the circumstances described in this SFAR warrant immediate action by the FAA to maintain the safety of flight, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with my obligations under 49 U.S.C. 40105(b)(1)(A) to ensure that I exercise my duties consistently with the obligations of the United States under international agreements. The Department of State has been advised of, and has no objection to, the action taken herein.

This rule shall remain effective until further notice.

Regulatory Evaluation**Benefits**

This regulation will generate potential benefits in the form of ensuring that the current acceptable level of safety continues for U.S. air carriers and other operators. The potential benefits of this action will accrue only to those air carriers and other operators currently engaging in overflights of the territory of Iran. Since this action is promulgated prior to the occurrence of a serious incident resulting in loss of life or damage to or destruction of property, there are no statistics from which a quantitative estimate of benefits can be derived.

Costs

The SFAR will impose a potential incremental cost of compliance in the form of the circumnavigation (including the additional time for preflight planning) of the territory and airspace of

Iran. Based on information available to informed FAA personnel, there are three U.S. air carriers currently conducting flights within Iranian airspace and over the territory of Iran. In addition, there may be overflights of Iranian territory by other U.S. civil aviation. The FAA believes that these operators will be the only entities affected by this action. These operators will incur costs for additional fuel and time as the result of diverting from their normal flight routes over Iran between Europe, Africa, and Asia. This action will impose costs in the form of additional preflight planning and circumnavigation of Iranian territory. The FAA seeks comment on the economic effects of this rule.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have "significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. The FAA has determined that none of the U.S. air carriers affected by the SFAR are "small entities" as defined by FAA Order 2100.14A. Thus, the SFAR would not impose a "significant economic impact on a substantial number of small entities."

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*).

International Trade Impact Assessment

This final rule could have an impact on the international flights of U.S. air carriers and commercial operators because it will restrict their ability to overfly the territory of Iran and, therefore, may impose additional costs relating to the circumnavigation of Iranian territory and airspace. This final rule, however, will not restrict the ability of foreign air carriers to overfly Iranian territory. Given the narrow scope of this rule, it will not eliminate

existing or create additional barriers to the sale of foreign aviation products in the United States or to the sale of U.S. aviation products and services in foreign countries.

Federalism Determination

The SFAR set forth 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 (52 FR 41685; October 30, 1987), it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, FAA has determined that this action is a "significant regulatory action" under Executive Order 12866. This action is considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The FAA has determined that none of the U.S. air carriers affected by the SFAR are "small entities" as defined by FAA Order 2100.14A. Thus, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulation Flexibility Act.

List of Subjects in 14 CFR Part 91

Aircraft, Airmen, Airports, Air traffic control, Aviation safety, Freight, Iran.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. Special Federal Aviation Regulation (SFAR) No. 76 is added to read as follows:

Special Federal Aviation Regulation No. 76—Prohibition Against Certain Flights Within the Territory and Airspace of Iran

1. *Applicability.* This rule applies to the following persons:

(a) All U.S. air carriers and commercial operators;

(b) All persons exercising the privileges of an airman certificate issued by the FAA except such persons operating U.S.-registered aircraft for a foreign air carrier; or

(c) All operators of aircraft registered in the United States except where the operator of such aircraft is a foreign air carrier.

2. *Flight Prohibition.* Except as provided in paragraphs 3 and 4 of this SFAR, no person described in paragraph 1 may conduct flight operations over or within the territory and airspace of Iran.

3. *Permitted Operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations over or within the territory and airspace of Iran where such operations are authorized by an exemption issued by the Administrator.

4. *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 this SFAR to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR part 119, 121, or 135, each person who deviates from this rule shall, within ten (10) days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons therefore.

5. *Expiration.* This Special Federal Aviation Regulation will remain in effect until further notice.

Issued in Washington, DC, on September 17, 1996.

David R. Hinson,
Administrator.

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