

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 91**

[Docket No. 29317; SFAR 82]

RIN 2120-AG67

**Prohibition Against Certain Flights Within the Territory and Airspace of Sudan**

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

**ACTION:** Final rule.

**SUMMARY:** This action prohibits flight operations within the territory and airspace of Sudan by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, 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 persons and aircraft engaged in such flight operations as a result of increased tensions due to the recent U.S. military strikes against terrorist and industrial facilities associated with Usama Bin Ladin in Sudan and Afghanistan.

**DATES:** This action is effective August 21, 1998, and shall remain in effect until further notice.

**FOR FURTHER INFORMATION CONTACT:** David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267-8166.

**SUPPLEMENTARY INFORMATION:****Availability of This Action**

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 ((703) 321-3339), the Government Printing Office's (GPO) electronic bulletin board service ((202) 512-1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service ((900) 322-2722 or (202) 267-5948). Internet users may reach the FAA's web page at <http://www.faa.gov> or the GPO web site at <http://www.access.gpo/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 Ave., SW, Washington,

DC 20591, or by calling (202) 267-9677. Communications must identify the docket number of this action.

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

**Small Entity Inquiries**

The Small Business Regulatory Enforcement Fairness of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM-27, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 1-888-551-1594. 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.dot.gov.

**Background**

On August 20, 1998, the U.S. military conducted strikes against terrorist and industrial facilities associated with Usama Bin Ladin in Sudan and Afghanistan. As a result, there could be a hostile reaction from armed elements in Sudan. Therefore, the Federal Aviation Administration has determined that the safe overflight of Sudanese territory can not be guaranteed.

**Prohibition Against Certain Flights Within the Territory and Airspace of Sudan**

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 action by the FAA is necessary to prevent the injury to U.S. operators or the loss of certain U.S.-registered aircraft conducting flights in the territory and airspace of Sudan. I find that increased tensions resulting from the recent U.S. military strikes in Sudan present an immediate hazard to the operation of U.S. civil aircraft, operators, and airmen within

Sudanese territory and airspace. Accordingly, I am ordering a prohibition on all flight operations within the territory and airspace of Sudan by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator 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 aircraft and to protect persons and property on board those aircraft. SFAR 82 shall remain in effect until further notice.

Because the circumstances described herein warrant immediate action by the FAA to maintain the safety of flight by the aforementioned persons within the territory and airspace of Sudan, I find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further I find good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with the obligations under section 40105 of Title 49, United States Code to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

**Regulatory Analyses**

This rulemaking action is determined to be taken under an emergency situation within the meaning of Section 6(a)(3)(d) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Para. 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is not a significant rule within the meaning of either the Executive Order or DOT's policies and procedures. Accordingly, no regulatory analysis or evaluation accompanies the rule. The FAA certifies that this rule will not have a substantial impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980, as amended. It also will have no impact on international trade and creates no unfunded mandate on any entity.

**The Amendment**

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR Part 92 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, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315,

46316, 46502, 46504, 46506, 47122, 47508, 47528-47531.

2. Special Federal Aviation Regulation (SFAR) No. 82 is added to read as follows:

**Special Federal Aviation Regulation No. 82—Prohibition Against Certain Flights Within the Territory and Airspace of Sudan**

1. *Applicability.* This rule applies to all U.S. air carriers and commercial operators, all persons exercising the privileges of an airman certificate issued by the FAA, and all operators using 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 within the territory and airspace of Sudan.

3. *Permitted operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations within the territory and airspace of Sudan where such operations are authorized either by exemption issued by the Administrator or by another agency of the United States Government with the approval of the FAA.

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 121.557, 121.559, or 135.19, 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 therefor.

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

Issued in Washington, DC, on August 21, 1998.

**Jane F. Garvey,**

*Administrator.*

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