

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

[Docket No. 27744; SFAR No. 67]

RIN 2120-AG56

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Special Federal Aviation Regulations (SFAR) 67 by expanding the prohibition on flight operations within the territory and airspace of Afghanistan 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. The amendment prohibits flight operations by the aforementioned persons through the territory and airspace of Afghanistan. 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.

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 ((800) 322-2722 or (202) 267-5948). Internet users may reach the FAA's web page at <http://www.faa.gov> or the GPO 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 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 describes the application procedure.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act 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 Avenue, 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 Afghanistan. Therefore, the Federal Aviation Administration has determined that the safe overflight of Afghan territory can not be guaranteed.

Amendment of Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

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 Afghanistan. I find that increased

tensions resulting from the recent U.S. military strikes in Afghanistan present an immediate hazard to the operation of U.S. civil aircraft, operators, and airmen within Afghan territory and airspace. Accordingly, by this amendment to SFAR 67, I am ordering a prohibition on all flight operations within the territory and airspace of Afghanistan 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 aircraft and to protect persons and property on board those aircraft. SFAR 67 currently expires on May 10, 2000; this action does not affect that expiration date.

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 Afghanistan, 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 that 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 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, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506, 47122, 47508, 47528–47531.

2. Paragraph 3 of SFAR 67 is revised to read as follows:

**Special Federal Aviation Regulations
No. 67—Prohibition Against Certain
Flights Within the Territory and
Airspace of Afghanistan**

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3. *Permitted operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations within the territory and airspace of Afghanistan

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.

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

Jane F. Garvey,

Administrator.

[FR Doc. 98–22892 Filed 8–21–98; 2:39 pm]

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