

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-1028; Directorate Identifier 2009-NM-188-AD]

RIN 2120-AA64

#### Airworthiness Directives; Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.) Model Gulfstream G150 Airplanes

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain Model Gulfstream G150 airplanes. The proposed AD would have required inspecting to determine the manufacturer of the baggage compartment rubber seals, and replacing the baggage compartment rubber seals manufactured by Gumiyon with seals manufactured by Rubbercraft. Since the proposed AD was issued, we have received new data from the manufacturer stating that all affected airplanes have already been modified as described in the proposed AD. Accordingly, the proposed AD is withdrawn.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

#### FOR FURTHER INFORMATION CONTACT:

Mike Borfitz, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2677; fax (425) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Model Gulfstream G150 airplanes. That NPRM was published in the *Federal Register* on November 5, 2009 (74 FR 57266). The NPRM would have required inspecting to determine the manufacturer of the baggage compartment rubber seals, and replacing the baggage compartment rubber seals manufactured by Gumiyon with seals manufactured by Rubbercraft. The NPRM resulted from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI described the unsafe condition as:

IAI Company Flammability tests revealed that the baggage compartment rubber seals manufactured by Gumiyon are not compliant with FAR [Federal Aviation Regulation] 25, Appendix F, Part I requirements.

The proposed actions were intended to prevent potential ignition of the baggage compartment rubber seals, which could lead to a larger fire.

#### Actions Since NPRM Was Issued

Since we issued the NPRM, Gulfstream Aerospace LP has informed the FAA that all Model Gulfstream G150 airplanes have been modified in accordance with Gulfstream Service Bulletin 150-25-055, dated October 28, 2008 (specified as the appropriate source of service information for accomplishing the requirements of the proposed AD). Gulfstream Aerospace LP states that, consequently, all actions specified in the NPRM are complete.

#### FAA's Conclusions

Upon further consideration, we have determined that the proposed AD is not necessary. Accordingly, the NPRM is withdrawn.

Withdrawal of the NPRM does not preclude the FAA from issuing another

related action or commit the FAA to any course of action in the future.

#### Regulatory Impact

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA-2009-1028, Directorate Identifier 2009-NM-188-AD, which was published in the *Federal Register* on November 5, 2009 (74 FR 57266).

Issued in Renton, Washington, on May 14, 2010.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2010-12673 Filed 5-25-10; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 91

[Docket No.: FAA-2010-0289; SFAR No. 110]

RIN 2120-AJ69

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

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action would permit certain U.S. civil aircraft operations below flight level (FL) 160 within the territory and airspace of Afghanistan, when approved by the FAA as provided herein. Otherwise, flight operations below FL 160 would be prohibited within the territory and airspace of Afghanistan by all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of a U.S. airman certificate, except when that person is operating a U.S.-registered

aircraft for a foreign air carrier; and operators of U.S.-registered aircraft, except when such operators are foreign air carriers. The FAA finds this action necessary to prevent a potential hazard to persons and aircraft engaged in such flight operations.

**DATES:** Send your comments on or before June 10, 2010.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2010–0289, using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**Privacy:** We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketsInfo.dot.gov>.

**Docket:** To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket or Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For technical questions about this proposed rule, contact Aviation Safety Inspectors David Catey or David Morton, Air Transportation Division, Flight Standards Service, Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, DC 20591; respective telephone numbers are (202) 267–3732 and (202) 493–5580.

For legal questions, contact Lorelei Peter, Office of the Chief Counsel, AGC–200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3134.

**SUPPLEMENTARY INFORMATION:** Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of related rulemaking documents.

#### Authority for This Rulemaking

The FAA is responsible for the safety of flight in the United States and for the safety of U.S.-registered aircraft and U.S. operations throughout the world. Also, the FAA is responsible for issuing rules affecting the safety of air commerce and national security. The FAA's authority to issue the rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106(g), describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise his authority consistently with the obligations of the United States Government under international agreements. Further, the FAA has broad authority under section 44701(a)(5) to prescribe regulations governing the practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security.

#### Background

##### Statement of the Problem

Insurgent activity in Afghanistan has increased and threatens the safety of U.S. civil aircraft operating within Afghan airspace and overflying the territory of Afghanistan. This insurgent activity has adversely affected the safety of airfield operation for these flights. The Afghan insurgents, armed with various weapons, pose a serious threat to U.S. civil aircraft at local airports and to these aircraft on approach to and

departing from these airports. Insurgents with small arms fire capabilities have been targeting airfields with rockets and have fired on aircraft at these airfields. While U.S. civil aircraft have not yet specifically been targeted, there have been several reported events of these aircraft being hit by small arms fire. Also, foreign civil aircraft that support the North Atlantic Treaty Organization (NATO) have been shot down by small arms and rocket-propelled grenade fire.

#### General Summary of Proposal

In view of the threat escalation in the territory and airspace of Afghanistan, and in furtherance of the FAA Administrator's responsibilities to promote the safe flight of U.S. civil aircraft in air commerce and to issue aviation rules in the interest of national security of the United States, the Administrator has determined that the potential hazard to U.S.-registered aircraft and U.S.-certificated airman must be mitigated. Therefore, the FAA proposes to issue an SFAR to restrict flight below FL 160 within the airspace and territory of Afghanistan, except in compliance with the procedures set forth in this rule.

#### Notice and Comment

The situation in Afghanistan presents a unique environment relative to other situations when the FAA has imposed regulations addressing the safety of U.S. certificated operators and airmen and U.S. registered aircraft operating in foreign territories and airspace. The presence of the U.S. military forces in Afghanistan has required a large presence of U.S. civilian aircraft operations to support the warfighting, nation-building, and humanitarian efforts. The level of these operations occurring in Afghanistan warrant the FAA to provide notice of the proposed regulations to limit flight in this area and a limited opportunity for comment from operators or individuals that may be affected by this action. The FAA advises that pursuing this course of action with respect to the above flights being conducted in Afghanistan does not alter in any manner, the agency's authority or ability to impose immediate restrictions on the above operations if the safety of these operations cannot be ensured or for other environments for which such regulations may be appropriate.

For the reasons stated, the FAA finds that good cause exists to limit the notice and public comment period required by 5 U.S.C. 553(d)(3) to 15 days.

## Discussion of the Proposed Regulatory Requirements

### *Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan*

Unless specifically approved by the FAA as described below, SFAR 110 would prohibit all flight operations within the territory and airspace of Afghanistan below FL 160 by U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, unless such person is operating a U.S.-registered aircraft for a foreign air carrier; and operators of a U.S.-registered aircraft, unless the operation is for a foreign air carrier. This SFAR is necessary to mitigate an undue hazard to affected aircraft and to protect persons and property onboard those aircraft. This SFAR would remain in effect for 5 years from the effective date of the SFAR. The FAA would retain the right to amend, rescind, or extend the SFAR as necessary. The FAA would continue to monitor the threat level and review the SFAR as required and as part of the overall U.S. strategy for Afghanistan.

### *Approval Based on Authorization Request of an Agency of the United States Government*

If a department or agency of the U.S. Government determines that it has a critical need to engage any person covered under paragraph 1 of proposed SFAR 110, including a U.S. air carrier or a U.S. commercial operator in a charter for transportation of civilian or military passengers or cargo where the total capacity of the aircraft is used solely for that charter while the aircraft operates within Afghanistan, the U.S. Government department or agency may request FAA approval of the operation for the person covered under paragraph 1 (Applicability) of the proposed rule.

Such an approval request would have to be made in writing by a letter signed by an appropriate senior official of the requesting department or agency of the U.S. Government; and the letter must be sent to the Associate Administrator for Aviation Safety (AVS-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. An appropriate senior official is someone with final authority for approving that U.S. Government department or agency's Safety Risk Analysis Plan (SRAP), described in item 2 below. A single letter may request approval from the FAA for multiple persons covered under paragraph 1 (Applicability) of proposed SFAR 110. The letter would have to

identify the person covered under the SFAR on whose behalf the U.S. Government department or agency is seeking FAA approval, and it must describe—

- The proposed operations, including the nature of the mission being supported;
- The service provided by the person covered by the SFAR;
- The specific locations within Afghanistan where the proposed operations will be conducted; and
- Whether the proposed operations involve a landing at a point other than the point of departure.

The request for approval would also have to include the following documents and information:

(1) A copy of the written contract between the U.S. Government department or agency requesting FAA approval and persons covered under paragraph 1 (Applicability) of proposed SFAR 110 for specific flight operations, which includes terms and conditions detailing how such flight operations are to be conducted.

(2) A Safety Risk Analysis Plan (SRAP), approved by an appropriate senior official of the U.S. Government department or agency, describing how, in view of the threat facing U.S. civil aviation in Afghanistan, the risks to the safety of the operation will be managed. The FAA's review of the SRAP shall not constitute FAA approval of the plan, in that it is not an FAA determination that the SRAP adequately manages the risk presented. Different kinds of operations or different operating locations may require different risk management strategies and, thus, the need for a U.S. Government department or agency to submit multiple SRAPs to address different operating conditions. The minimum safety considerations that must be specifically addressed in the SRAP include, but are not limited to—

- Thorough descriptions of access to and the use of intelligence;
- Operational security (OPSEC), including handling, storage, and transmission of information related to proposed operations;
- The manner of operational control of the aircraft by the operator;
- Mission planning and briefing, including how the management of risks related to insurgent activity is incorporated into mission planning for all stages of the operation;
- Ground security;
- In-flight security;
- Communications, including those between the operator and the aircraft and with the contracting U.S. Government department or agency

before, during, and after flight operations;

- Equipment, including a description of the aircraft and any special equipment to be used by the airmen;
- Whether and how training by the operator to flight and ground crew members and other operational personnel who will be involved in the proposed operations will be conducted;
- Reporting and feedback procedures of the operator to report threats to the FAA; and
- Any additional risk analysis and management measures deemed necessary.

(3) Any other information requested by the FAA.

If an approval request includes classified information, you may contact Aviation Safety Inspectors David Catey or David Morton for instructions on submitting it to the FAA. Their contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed SFAR.

The FAA would review the request for approval submitted by the U.S. Government department or agency for sufficiency in addressing the aviation safety considerations relative to the risks to the proposed operations. If the FAA determines that the U.S. Government department or agency has sufficiently addressed those safety considerations, an approval may be issued as described under the Approval Conditions discussion that follows. FAA approval of the operation under proposed paragraph 4 of SFAR 110 does not relieve the operator of its responsibility to comply with all FAA rules and regulations, as well as all rules and regulations of other U.S. Government departments or agencies that may apply to the operation, including, but not limited to, the Transportation Security Regulations issued by the Transportation Security Administration, Department of Homeland Security.

### *Proposed Approval Conditions*

If the FAA approves the requested operation, the FAA's Aviation Safety Organization (AVS) would issue an approval directly to the carrier by Operations Specifications (large air carriers) or a letter of authorization (general aviation operations). AVS would send a letter to the authorizing agency to indicate the extent to which the FAA approves the proposed operations. The letter would stipulate the specific conditions under which the FAA approves the air carrier or other covered person for the requested operations in Afghanistan. Specifically:

(1) Any approval would stipulate those procedures and conditions that limit, to the greatest degree possible, the risk to the operator while still allowing the operator to achieve its operational objectives;

(2) Any approval would specify that the operation is not eligible for coverage by a premium war risk insurance policy issued by the FAA under section 44302 of chapter 443 of Title 49 of the United States Code. A request for such coverage would not be granted;

(3) If the operator is already covered by a premium war risk insurance policy issued by the FAA,<sup>1</sup> the applicant would be required to request the FAA to issue an endorsement to its premium war risk insurance policy that specifically excludes coverage for any operations below FL 160 in the territory and airspace of Afghanistan, including a flight plan that contemplates landing in or taking off from Afghan territory. If approved by the FAA, such an endorsement to the premium war risk insurance policy would have to be issued and effective before the effective date of the approval. Additionally, and before any approval is issued, the operator would have to submit to the FAA in writing its agreement to waive all claims and liabilities against the U.S. Government with respect to any third-party claims and liabilities relating to any event arising from or related to the approved operation. Such waiver and indemnification agreement would also be required as a condition of any exemption issued under paragraph 3 of proposed SFAR 110.

(4) If the operation includes the carriage of civilian passengers, the operator would have to obtain signed statements from each passenger that the passenger knowingly accepts the risk of the operation and consents to that risk; and

(5) Other conditions as determined by the FAA.

The FAA may impose additional conditions on operators through their Operations Specifications or letters of authorization that are not contained in letters notifying requesting departments or agencies of approvals.

### Exemption

Persons covered under paragraph 1 (Applicability) of proposed SFAR 110 who are performing operations for entities other than U.S. Government

agencies may seek an exemption under paragraph 3 in accordance with the procedures set forth in 14 CFR part 11. In petitioning for an exemption, the petition would have to show that its intended operation is in the public interest. For these operations, the operator would have to (1) submit a letter from a U.S. Government agency supporting the proposed operations as being in the public interest; and (2) provide information to demonstrate that the operator can establish a comparable level of safety, which at a minimum, meets the criteria of the SRAP described above. Unless both conditions are met, an exemption permitting such operations will not be granted.

### Paperwork Reduction Act

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted the information requirements associated with this proposal to the Office of Management and Budget for its review.

*Title:* Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan.

*Summary:* This action would permit certain U.S. civil aircraft operations below flight level (FL) 160 within the territory and airspace of Afghanistan, when approved by the FAA.

*Use of:* If air carrier operators are covered by a premium war risk insurance policy issued by the FAA, they would be required to issue an endorsement to their premium war risk insurance policy that specifically excludes coverage for any operations below FL 160 in the territory and airspace of Afghanistan. The FAA would also require the affected operators to submit documentation to FAA showing that the endorsement to the premium war risk insurance policy is in effect before being issued operations specifications authorizing such operations.

Additionally, and before any authorization (operation specifications or letter of authorization) is issued, the operator would have to submit to the FAA in writing its agreement to waive all claims and liabilities against the U.S. Government with respect to any third-party claims and liabilities relating to any event arising from or related to the approved operation.

*Respondents (including number of):* The FAA estimates that there would be 25 affected operators.

*Frequency:* The information collection would occur one time during the first year the rule is in effect.

*Annual Burden Estimate:* The burden estimate is \$2,350.

The proposed rule would require two information collections from regulated entities. We expect that 25 entities would fill out paperwork with policy endorsements and they would submit the liability waiver and indemnification agreement. The required documentation for the affected entities to be in compliance with this proposed rule would take each operator 1 hour to fill out, endorse and file the required paperwork. As such, the cost for a one-year period would be \$2,350 (1 hour × 25 applicants × \$94 per hour).

The agency is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement by June 10, 2010, and should direct them to the address listed in the **ADDRESSES** section at the end of this preamble. Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Building, Room 10202, 725 17th Street, NW., Washington, DC 20053.

According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

### International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA

<sup>1</sup> Coverage under FAA premium war risk insurance policies is suspended, as a condition of the premium war risk policy, if an operation is covered by non-premium war risk insurance through a contract with an agency of the U.S. Government under section 44305 of chapter 443 of Title 49 of the U.S. Code.

has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

#### **IV. Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment**

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows: This proposed SFAR requires the submission of a request to conduct an operation in a hazardous airspace. Such a request involves the submission of paperwork which is viewed as resulting in minimal cost.

The FAA has, therefore, determined that while this proposed rule is not an economically significant regulatory action as defined in section 3(f)(1) of Executive Order 12866, it is “significant” as defined in section 3(f) of

Executive Order 12866 and DOT's Regulatory Policies and Procedures.

#### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

While we expect more than one small entity to be potentially subject to this rule, the completion of the proposed additional paperwork is thought to be of minimal cost.

Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

#### **Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$143.1 million in lieu of \$100 million. This proposed rule does not contain

such a mandate; therefore, the requirements of Title II of the Act do not apply.

#### **Executive Order 13132, Federalism**

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect 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, and, therefore, would not have federalism implications.

#### **Environmental Analysis**

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraphs 312d and 312f and involves no extraordinary circumstances.

#### **Regulations That Significantly Affect Energy Supply, Distribution, or Use**

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a “significant energy action” under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### **Additional Information**

##### *Comments Invited*

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will

consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

#### *Proprietary or Confidential Business Information*

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD-ROM, mark the outside of the disk or CD-ROM and also identify electronically within the disk or CD-ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and we place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

#### *Availability of Rulemaking Documents*

You can get an electronic copy of rulemaking documents using the Internet by—Searching the Federal eRulemaking Portal (<http://www.regulations.gov>); Visiting the FAA's Regulations and Policies Web page at: [http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies) or Accessing the Government Printing Office's Web page at: <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket or notice number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the internet through the Federal eRulemaking Portal referenced in paragraph (1).

#### **List of Subjects in 14 CFR Part 91**

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

#### **The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, 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), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531; articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

2. In part 91, Special Federal Aviation Regulation (SFAR) No. 110 is added to read as follows:

#### **Special Federal Aviation Regulation No. 110—Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan**

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

- (a) All U.S. air carriers and U.S. 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; and
- (c) All operators of U.S.-registered aircraft, except where the operator of such aircraft is a foreign air carrier.

2. *Flight prohibition.* Except as provided below, or in paragraphs 3 and 4 of this SFAR, no person described in paragraph 1 may conduct flight operations within the territory and airspace of Afghanistan below FL 160. This rule permits U.S. civil aircraft operations by persons described in paragraph 1 below flight level (FL) 160 within the territory and airspace of Afghanistan, only when approved by the FAA as provided herein.

(a) Overflights of Afghanistan may be conducted at or above FL 160 subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Afghanistan.

(b) Flights departing from countries adjacent to Afghanistan whose climb performance will not permit operation at or above FL 160 prior to entering Afghan airspace may operate at altitudes below FL 160 within Afghanistan to the extent necessary to permit a climb above FL 160, subject to the approval of, and in accordance with the conditions

established by, the appropriate authorities of Afghanistan.

3. *Permitted operations.* This SFAR does not prohibit persons described in section 1 from conducting flight operations within the territory and airspace of Afghanistan below FL 160 when such operations are authorized either by another agency of the United States Government with the approval of the FAA or 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 Title 14 CFR parts 119, 121, or 135, each person who deviates from this rule must, within 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 for it.

5. *Expiration.* This Special Federal Aviation Regulation will remain in effect for 5 years from the effective date. The FAA may amend, rescind, or extend the SFAR as necessary.

Issued in Washington, DC, on May 21, 2010.

**Raymond Towles,**

*Acting Director, Flight Standards Service, Aviation Safety.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 93**

[Docket No. FAA-2010-0302; Notice No. 10-08]

**RIN 2120-AJ75**

#### **The New York North Shore Helicopter Route**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This proposed action would require helicopter operators to use the New York North Shore Route when operating in that area of Long Island, New York. The North Shore Route was added to the New York Helicopter Route