



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA-2023-1415; Amdt. No. 91-369B]

RIN 2120-AM09

Extension of the Prohibition Against Certain Flights in the Kabul Flight Information Region (FIR) (OAKX)

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

ACTION: Final rule.

SUMMARY: This action extends the prohibition against certain flight operations in the Kabul Flight Information Region (FIR) (OAKX) by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier, for an additional three years, from July 25, 2025, to July 25, 2028. FAA finds this action necessary to address continuing risks to persons and aircraft engaged in such flight operations.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Bill Petrak, Flight Standards Service, through the Washington Operations Center, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, D.C. 20591; telephone (202) 267-3203; email 9-FAA-OverseasFlightProhibitions@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This action extends the expiration date of Special Federal Aviation Regulation (SFAR) No. 119, title 14 Code of Federal Regulations (14 CFR), 91.1619, from July 25, 2025, to July 25, 2028. SFAR No. 119, § 91.1619, prohibits certain flight operations in the Kabul FIR (OAKX) at altitudes below Flight Level (FL) 320, except to operate transiting overflights of the Kabul FIR (OAKX) on jet routes P500-G500 at altitudes at and above FL300, by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when the operator of such aircraft is a foreign air carrier. FAA finds this action necessary to address significant unacceptable safety-of-flight risks to U.S. civil aviation that continue to exist in the Kabul FIR (OAKX). FAA also republishes the approval process and exemption information for this flight prohibition SFAR, consistent with other recently published flight prohibition SFARs.

II. Authority and Good Cause

A. Authority

FAA is responsible for the safety of flight in the United States and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. Section 106(f) of title 49, U.S. Code (U.S.C.), subtitle I, establishes the FAA Administrator's authority to issue rules on aviation safety. Subtitle VII of title 49, 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 this authority consistently with the obligations of the U.S. Government under international agreements.

FAA is promulgating this rule under the authority described in 49 U.S.C. 44701, General requirements. Under that section, FAA is charged broadly with promoting safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security.

This regulation is within the scope of FAA's authority because it continues to prohibit the persons described in paragraph (a) of SFAR No. 119, § 91.1619, from conducting certain flight operations in the Kabul FIR (OAKX) due to the continuing hazards to the safety of U.S. civil flight operations, as described in the preamble to this final rule.

B. Good Cause for Immediate Adoption

Section 553(b)(B) of title 5, U.S. Code, authorizes agencies to dispense with notice and comment procedures for rules when the agency for "good cause" finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Also, section 553(d) permits agencies, upon a finding of good cause, to issue rules with an effective date less than 30 days from the date of publication. In this instance, FAA finds good cause to forgo notice and comment and the delayed effective date because they would be impracticable and contrary to the public interest.

Providing notice and the opportunity for the public to comment here would be impracticable. FAA's flight prohibitions, and any amendments thereto, need to include appropriate boundaries that reflect the agency's current understanding of the risk environment for U.S. civil aviation. This allows FAA to protect the safety of U.S. operators' aircraft and the lives of their passengers and crews without over-restricting or under-restricting U.S. operators' routing options. However, the risk environment for U.S. civil aviation in airspace managed by other countries with respect to safety of flight is fluid in circumstances involving fighting, violent extremist and militant activity, or periods of heightened tensions, particularly where weapons capable of targeting or otherwise negatively affecting U.S. civil aviation are or may be

present. This fluidity, and the potential for rapid changes in the risks to U.S. civil aviation, significantly limits how far in advance of a new or amended flight prohibition FAA can usefully assess the risk environment. The delay that would be occasioned by providing an opportunity to comment on this action would significantly increase the risk that the resulting final action would not accurately reflect the current risks to U.S. civil aviation associated with the situation and thus would not establish boundaries for the flight prohibition commensurate with those risks.

While FAA sought and responded to public comments, the boundaries of the area in which unacceptable risks to the safety of U.S. civil aviation existed might change due to: evolving military or political circumstances; violent extremist and militant group activity; the introduction, removal, or repositioning of more advanced anti-aircraft weapon systems; or other factors. As a result, if the situation improved while FAA sought and responded to public comments, the rule FAA finalized might be over-restrictive, unnecessarily limiting U.S. operators' routing options and potentially causing them to incur unnecessary additional fuel and operations-related costs, as well as potentially causing passengers to incur unnecessarily some costs attributed to their time. Conversely, if the situation deteriorated while FAA sought and responded to public comments, the rule FAA finalized might be under-restrictive, allowing U.S. civil aviation to continue operating in areas where unacceptable risks to their safety had developed. Such an outcome would endanger the safety of these aircraft, as well as their passengers and crews, exposing them to unacceptable risks of death, injury, and property damage that could occur if a U.S. operator's aircraft were shot down (or otherwise damaged) while operating in the Kabul FIR (OAKX).

Alternatively, if FAA made changes to the area in which U.S. civil aviation operations would be prohibited between a notice of proposed rulemaking and a final rule due to changed conditions, the version of the rule the public commented on would no longer reflect FAA's current assessment of the risk environment for U.S. civil aviation.

In addition, seeking comment would be contrary to the public interest because some of the rational basis for the rulemaking is based upon classified information and controlled unclassified information. In order to provide comment on a proposal meaningfully, the public would need access to the basis for the agency's decision-making, which FAA cannot provide. Disclosing classified information or controlled unclassified information to seek meaningful comment on the proposal would harm the public interest. Accordingly, FAA meaningfully seeking comment on the proposal is contrary to the public interest.

Therefore, providing notice and the opportunity for comment would be impracticable as it would hinder FAA's ability to maintain appropriate flight prohibitions based on up-to-date risk assessments of the risks to the safety of U.S. civil aviation operations in airspace managed by other countries. It also would be contrary to the public interest, as FAA cannot protect classified information and controlled unclassified information and meaningfully seek public comment.

For the same reasons discussed above, the potential safety impacts and the need for prompt action on up-to-date information that is not public would make delaying the effective date impracticable and contrary to the public interest.

Accordingly, FAA finds good cause exists to forgo notice and comment and any delay in the effective date for this rule.

III. Background

On August 30, 2021, FAA issued Notice To Airmen (NOTAM) KICZ A0029/21 to address the then-existing unacceptable risks to the safety of U.S. civil aviation operations in the Kabul FIR (OAKX) at all altitudes, except for transiting overflight operations on jet routes P500-G500. This NOTAM prohibited, with certain limited exceptions, U.S. civil aviation operations in the Kabul FIR (OAKX) at all altitudes by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and all operators of U.S.-

registered civil aircraft, except when the operator of such aircraft is a foreign air carrier, due to the risk posed by violent extremist and militant activity, lack of adequate risk mitigation capabilities, and disruption to air traffic services. The NOTAM allowed U.S. civil aviation overflights to transit the Kabul FIR (OAKX) on jet routes P500-G500, as such operations are only in the Kabul FIR (OAKX) very briefly.

Following the Taliban takeover of Afghanistan, the International Civil Aviation Organization (ICAO) Asia-Pacific Office contacted Afghanistan's civil aviation authority and stood up a contingency coordination team (CCT) composed of Afghanistan and neighboring air navigation service providers, as well as International Air Transport Association (IATA) representation. Afghanistan's civil aviation authority and the CCT worked with neighboring air navigation service providers to establish a contingency plan for the safe resumption of civil overflights in the Kabul FIR (OAKX).

Subsequently, Afghanistan issued a series of NOTAMs delineating overflight procedures and established altitude blocks for specific categories of flight operations across various regions. The overflight procedures rely upon internationally recognized traffic information broadcasts by aircraft (TIBA) procedures, which pilots use in areas around the world where air traffic services are very limited or unavailable to maintain safe separation between aircraft. Consequently, FAA determined that U.S. civil aviation operations throughout the Kabul FIR (OAKX) could resume at altitudes at and above FL320 due to diminished risks to U.S. civil aviation operations at those altitudes. On July 25, 2023, FAA published in the *Federal Register* a final rule allowing U.S. civil overflights of the Kabul FIR (OAKX) to resume at altitudes at and above FL320.¹ However, as described in more detail in the preamble to the July 2023 final rule, FAA continued to assess the situation in the Kabul FIR (OAKX) at altitudes below FL320 as being hazardous for U.S. civil aviation and prohibited U.S. civil aviation operations at those altitudes.

¹ *Prohibition Against Certain Flights in the Kabul Flight Information Region (FIR) (OAKX)* final rule, 88 FR 47765 (Jul. 25, 2023).

Although FAA did not identify or assess that there existed any increased safety-of-flight risks to transiting U.S. civil aviation overflights operating on jet routes P500-G500 due to violent extremist or militant activity, FAA prohibited operations on those routes at altitudes below FL320 in the July 2023 final rule because the Kabul FIR Air Traffic Management Contingency Plan indicates that, as necessary, FL300 may be reserved for military operations by NOTAM. Consequently, FAA decided to establish a minimum allowed overflight level of FL320 for U.S. civil aviation operations in the entirety of the Kabul FIR (OAKX) to help ensure aircraft separation between any military operations being conducted in the Kabul FIR (OAKX) at FL300 and U.S. civil aviation overflights.

Subsequently, FAA received two petitions for exemption from SFAR No. 119, § 91.1619, from U.S. air carriers requesting to operate on jet routes P500-G500 at altitudes at and above FL300, instead of at altitudes at and above FL320 as required by SFAR No. 119, § 91.1619, due to aircraft performance issues under certain meteorological conditions.²

Since the publication of the Kabul FIR Air Traffic Management Contingency Plan and continuing since FAA issued the July 2023 final rule, Afghanistan had issued a series of NOTAMs permitting overflight operations between waypoints FIRUZ and MOTMO on jet routes P500-G500 at altitudes between FL300-FL510. FAA was not aware of any safety or security incidents experienced by civil aircraft operating on jet routes P500-G500 in the Kabul FIR (OAKX) at altitudes at or above FL300 due to military flight operations. In addition, FAA was not aware of any active threats to U.S. civil aviation operations on jet routes P500-G500 in the Kabul FIR (OAKX) from violent extremist and militant activity and was not aware of any reports of security incidents involving violent extremist and militant activity posing safety-of-flight risks to civil aircraft overflights using these jet routes at altitudes at or above FL300 in the Kabul FIR (OAKX). The very limited flight time in the Kabul FIR (OAKX) minimizes both potential exposure to any military operations in the Kabul FIR (OAKX) that might be operating

² American Airlines, docket FAA-2023-1985. United Parcel Service, Co., docket FAA-2023-2065.

at FL300 and to potential opportunistic threats from violent extremists. Specifically, the flight distance between waypoints FIRUZ and MOTMO on jet routes P500-G500 is approximately 12 nautical miles, which takes approximately 95 seconds at cruising speeds.

Consequently, FAA determined that U.S. civil aviation overflights of the Kabul FIR (OAKX) at altitudes at and above FL300 on jet routes P500-G500 presented a low risk. Therefore, FAA amended SFAR No. 119, § 91.1619, to permit U.S. civil aviation to conduct transiting overflights of the Kabul FIR (OAKX) on jet routes P500-G500 at altitudes at and above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Afghanistan.³

IV. Discussion of the Final Rule

FAA continues to assess the situation in the Kabul FIR (OAKX) as being hazardous for U.S. civil aviation. While the Taliban continues to encourage international air carriers to return to Afghanistan, FAA assesses a number of factors exist that pose safety of flight hazards to civil aviation operations at lower altitudes and while aircraft are on the ground in Afghanistan. These factors include the continued presence and operations of terrorist groups—including the Islamic State of Iraq and ash-Sham, Khorasan Province (ISIS-K) and al-Qa'ida (AQ) – as well as anti-Taliban forces such as the National Resistance Front (NRF) and the Afghanistan Freedom Front (AFF), whose members likely maintain access to small arms, automatic machine guns, anti-aircraft artillery (AAA), anti-tank guided missiles (ATGMs), and unmanned aircraft systems (UAS). These types of weapons could pose a threat to aircraft during low-altitude flight operations, including the arrival and departure phases of flight, as well as to aircraft on the ground at targeted airports and airfields in Afghanistan. Additionally, some of these groups also

³ Amendment of the Prohibition Against Certain Flights in the Kabul Flight Information Region (FIR) (OAKX) final rule, 89 FR 55500 (Jul. 5, 2024).

may have access to legacy man-portable air defense systems (MANPADS), which may be capable of reaching a maximum altitude of up to 25,000 feet above ground level.

Further, these groups maintain the ability to conduct attacks in the Afghan capital, as evidenced most recently by an NRF-claimed attack in December 2024 on the Ministry of Interior in Kabul—adjacent to Kabul International Airport (OAKB) and less than 4,500 feet from the end of the runway—and an AFF-claimed attack on Kabul International Airport (OAKB) in mid-October 2024. Several other attacks occurred throughout Kabul in 2024, and as recently as mid-February 2025, underscoring the continued lack of security in the Afghan capital. ISIS-K claimed responsibility for many of these attacks, showing that, despite Taliban pressure, the group—which was responsible for the August 2021 attack on Kabul International Airport (OAKB) that killed 13 U.S. service members and at least 170 civilians—maintains the capability to operate in Afghanistan. As of early 2025, the Taliban has not demonstrated the ability to mitigate the low-altitude civil aviation risks posed by these myriad threat actors.

In addition to the low-altitude threats posed by armed groups operating within Afghanistan, recent cross-border strikes by neighboring states on Afghan territory highlight airspace deconfliction challenges. Pakistan conducted likely uncoordinated airstrikes on multiple locations in eastern Afghanistan in late December 2024, which Taliban representatives claimed killed dozens of Afghan civilians. Pakistani authorities claimed to have targeted Tehreek-e-Taliban Pakistan (TTP) hideouts, after TTP claimed responsibility for an attack on a Pakistani border outpost that killed 16 soldiers. While the Taliban later claimed to have conducted retaliatory attacks on targets in Pakistan allegedly responsible for coordinating the airstrikes on Afghanistan, there were no details available regarding how they were conducted or any associated casualties or damage reported in Pakistan. Regardless, continued perceived Taliban support for the TTP will likely drive further unannounced and uncoordinated Pakistani airstrikes on targets in Afghanistan, as well as Taliban responses. The continued risk of these cross-border

exchanges—particularly in the airspace along the border between the two countries—presents a deconfliction challenge further complicating airspace management in the Kabul FIR (OAKX).

Therefore, as a result of the significant, continuing, unacceptable risks to the safety of U.S. civil aviation operations in the Kabul FIR (OAKX), FAA extends the expiration date of SFAR No. 119, § 91.1619, from July 25, 2025, until July 25, 2028.

Further amendments to SFAR No. 119, § 91.1619, might be appropriate if the risk to U.S. civil aviation safety and security changes. In this regard, FAA will continue to monitor the situation and evaluate the extent to which persons described in paragraph (a) of this rule might be able to operate safely in the Kabul FIR (OAKX).

FAA also republishes the details concerning the approval and exemption processes in Sections V and VI of this preamble, consistent with other recently published flight prohibition SFARs, to enable interested persons to refer to this final rule for comprehensive information about requesting relief from FAA from the provisions of SFAR No. 119, § 91.1619.

V. Approval Process Based on a Request from a Department, Agency, or Instrumentality of the United States Government

A. Approval Process Based on an Authorization Request from a Department, Agency, or Instrumentality of the United States Government

In some instances, U.S. Government departments, agencies, or instrumentalities may need to engage U.S. civil aviation to support their activities in the Kabul FIR (OAKX). If a department, agency, or instrumentality of the U.S. Government determines that it has a critical need to engage any person described in paragraph (a) of SFAR No. 119, § 91.1619, including a U.S. air carrier or commercial operator, to transport civilian or military passengers or cargo or conduct other operations in the Kabul FIR (OAKX), that department, agency, or instrumentality may request FAA to approve persons described in paragraph (a) of SFAR No. 119, § 91.1619, to conduct such operations.

The requesting U.S. Government department, agency, or instrumentality must submit the request for approval to the FAA's Associate Administrator for Aviation Safety in a letter signed by an appropriate senior official of the requesting department, agency, or instrumentality.⁴ FAA will not accept or consider requests for approval from anyone other than the requesting U.S. Government department, agency, or instrumentality. In addition, the senior official signing the letter requesting FAA approval must be sufficiently positioned within the requesting department, agency, or instrumentality to demonstrate that the organization's senior leadership supports the request for approval and is committed to taking all necessary steps to minimize aviation safety and security risks to the proposed flights. The senior official must also be in a position to: (1) attest to the accuracy of all representations made to FAA in the request for approval, and (2) ensure that any support from the requesting U.S. Government department, agency, or instrumentality described in the request for approval is in fact brought to bear and is maintained over time. Unless justified by exigent circumstances, requesting U.S. Government departments, agencies, or instrumentalities must submit requests for approval to FAA no less than 30 calendar days before the date on which the requesting department, agency, or instrumentality wishes the operator(s) to commence the proposed operation(s).

The requestor must send the request to the Associate Administrator for Aviation Safety, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, D.C. 20591. Electronic submissions are acceptable, and the requesting entity may request that FAA notify it electronically as to whether FAA grants the request for approval. If a requestor wishes to make an electronic submission to FAA, the requestor should contact the Washington Operations Center by telephone at (202) 267-3333 or by email at 9-FAA-OverseasFlightProhibitions@faa.gov for submission instructions. The requestor must not submit

⁴ This approval procedure applies to U.S. Government departments, agencies, or instrumentalities; it does not apply to the public. The FAA describes this procedure in the interest of providing transparency with respect to the FAA's process for interacting with U.S. Government departments, agencies, or instrumentalities that seek to engage U.S. civil aviation to operate in the area in which this SFAR would prohibit their operations in the absence of specific FAA approval.

its letter requesting FAA approval or related supporting documentation to the Washington Operations Center. Rather, the Washington Operations Center will refer the requestor to an appropriate staff member of the Flight Standards Service for further assistance.

A single letter may request approval from FAA for multiple persons described in SFAR No. 119, § 91.1619, or for multiple flight operations. To the extent known, the letter must identify the person(s) the requestor expects the SFAR to cover on whose behalf the U.S. Government department, agency, or instrumentality seeks FAA approval, and it must describe—

- The proposed operation(s), including the nature of the mission being supported;
- The service the person(s) covered by the SFAR will provide;
- To the extent known, the specific locations in the Kabul FIR (OAKX) where the proposed operation(s) will occur, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Kabul FIR (OAKX) and the airports, airfields, or landing zones at which the aircraft will take off and land; and
- The method by which the requesting department, agency, or instrumentality will provide, or how the operator will otherwise obtain, current threat information and an explanation of how the operator will integrate this information into all phases of the proposed operations (i.e., the pre-mission planning and briefing, in-flight, and post-flight phases).

The request for approval must also include a list of operators with whom the U.S. Government department, agency, or instrumentality requesting FAA approval has a current contract(s), grant(s), or cooperative agreement(s) (or its prime contractor has a subcontract(s)) for specific flight operations in the Kabul FIR (OAKX) at altitudes below FL320, except for transiting overflights on jet routes P500–G500 at altitudes at and above FL300 that are already permitted under this rule. The requestor may identify additional operators to FAA at any time after FAA issues its approval. Neither the operators listed in the original request, nor any operators the requestor subsequently seeks to add to the approval, may commence operations under the approval until FAA issues them an Operations Specification (OpSpec) or Letter of

Authorization (LOA), as appropriate, for operations in the Kabul FIR (OAKX) at altitudes below FL320 or at altitudes below FL300 on jet routes P500–G500, as applicable. The approval conditions discussed below apply to all operators. Requestors should contact the Washington Operations Center by telephone at (202) 267-3203 or by email at 9-FAA-OverseasFlightProhibitions@faa.gov for instructions on how to submit the names of additional operators the requestor wishes to add to an existing approval to FAA. The requestor must not submit the names of additional operators it wishes to add to an existing approval to the Washington Operations Center. Rather, the Washington Operations Center will refer the requestor to an appropriate staff member of the Flight Standards Service for further assistance.

If an approval request includes classified information or controlled unclassified information, requestors may contact the Washington Operations Center for instructions on submitting it to FAA. The Washington Operations Center's contact information appears in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

FAA approval of an operation under SFAR No. 119, § 91.1619, does not relieve persons subject to this SFAR of the responsibility to comply with all other applicable FAA rules and regulations. Operators of civil aircraft must comply with the conditions of their certificates, OpSpecs, and LOAs, as applicable. Operators also must comply with all rules and regulations of other U.S. Government departments, agencies, or instrumentalities that may apply to the proposed operation(s), including, but not limited to, regulations issued by the Transportation Security Administration.

B. Approval Conditions

If FAA approves the request, FAA's Aviation Safety organization will send an approval letter to the requesting U.S. Government department, agency, or instrumentality informing it that FAA's approval is subject to all of the following conditions:

(1) The approval will 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) Before any approval takes effect, the operator must submit to FAA:

(a) A written release of the U.S. Government from all damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising out of or related to the approved operations in the Kabul FIR (OAKX); and

(b) The operator's written agreement to indemnify the U.S. Government with respect to any and all third-party damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising out of or related to the approved operations in the Kabul FIR (OAKX).

(3) Other conditions FAA may specify, including those FAA might impose in OpSpecs or LOAs, as applicable.

The release and agreement to indemnify do not preclude an operator from raising a claim under an applicable non-premium war risk insurance policy FAA issues under chapter 443 of title 49, U.S. Code.

If FAA approves the proposed operation(s), FAA will issue an OpSpec or LOA, as applicable, to the operator(s) identified in the original request and any operators the requestor subsequently adds to the approval, authorizing them to conduct the approved operation(s). In addition, as stated in paragraph (3) of this section V.B., FAA notes that it may include additional conditions beyond those contained in the approval letter in any OpSpec or LOA associated with a particular operator operating under this approval, as necessary in the interests of aviation safety. U.S. Government departments, agencies, and instrumentalities requesting FAA approval on behalf of entities with which they have a contract or subcontract, grant, or cooperative agreement should request a copy of the relevant OpSpec or LOA directly from the entity with which they have any of the foregoing types of arrangements, if desired.

VI. Information Regarding Petitions for Exemption

Any operations not conducted under an approval FAA issues through the approval process set forth previously may only occur in accordance with an exemption from SFAR No. 119, § 91.1619. A petition for exemption must comply with 14 CFR part 11. FAA will consider whether exceptional circumstances exist beyond those described in the approval process in the previous section. To determine whether a petition for exemption from the prohibition this SFAR establishes fulfills the standards described in 14 CFR 11.81, FAA consistently finds necessary the following information:

- The proposed operation(s), including the nature of the operation;
- The service the person(s) covered by the SFAR will provide;
- The specific locations in the Kabul FIR (OAKX) where the proposed operation(s) will occur, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Kabul FIR (OAKX) and the airports, airfields, or landing zones at which the aircraft will take off and land;
- The method by which the operator will obtain current threat information and an explanation of how the operator will integrate this information into all phases of its proposed operations (i.e., the pre-mission planning and briefing, in-flight, and post-flight phases); and
- The plans and procedures the operator will use to minimize the risks identified in this preamble to the proposed operations to support the relief sought and demonstrate that granting such relief would not adversely affect safety or would provide a level of safety at least equal to that provided by this SFAR. FAA has found comprehensive, organized plans and procedures of this nature to be helpful in facilitating the agency's safety evaluation of petitions for exemption from flight prohibition SFARs.

FAA includes, as a condition of each such exemption it issues, a release and agreement to indemnify, as described previously.

FAA recognizes that, with the support of the U.S. Government, the governments of other countries could plan operations that may be affected by SFAR No. 119, § 91.1619. While FAA will not permit these operations through the approval process, FAA will consider exemption requests for such operations on an expedited basis and in accordance with the order of preference set forth in paragraph (c) of SFAR No. 119, § 91.1619.

If a petition for exemption includes information that is sensitive for security reasons or proprietary information, requestors may contact the Washington Operations Center for instructions on submitting it to FAA. The Washington Operations Center's contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule. Requestors must not submit their petitions for exemption or related supporting documentation to the Washington Operations Center. Rather, the Washington Operations Center will refer the requestor to the appropriate staff member of the Flight Standards Service or the Office of Rulemaking for further assistance.

VII. Regulatory Notices and Analyses

A. Regulatory Evaluation

This rule has been determined to be a significant regulatory action pursuant to Executive Order 12866. This rule continues to prohibit U.S. civil flights in the Kabul FIR (OAKX) at altitudes below FL320, except for transiting overflights on jet routes P500-G500 which are permitted to be conducted at altitudes at or above FL300, due to the continuing hazards to U.S. civil aviation described in this preamble. The alternative flight routes result in some additional fuel and operations costs to the operators, as well as some costs attributed to passenger time. FAA finds that the incremental costs of extending SFAR No. 119, § 91.1619, are exceeded by the benefits of avoided risks of deaths, injuries, and property damage that could occur if a U.S. operator's aircraft were shot down (or otherwise damaged) while operating in the Kabul FIR (OAKX) at altitudes below FL320, except for transiting overflights on jet routes P500-G500,

which are permitted to operate at altitudes at and above FL300 while operating in the Kabul FIR (OAKX) on those jet routes.

This rule is not an Executive Order 14192 regulatory action because it is being issued with respect to a national security or homeland security function of the United States. The benefit-cost analysis demonstrates that the regulation is anticipated to improve national or homeland security as its primary direct benefit and OIRA and the promulgating agency agree the regulation qualifies for a ‘good cause’ exception under 5 U.S.C. 553(b)(B).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), in 5 U.S.C. 603, requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever 5 U.S.C. 553 or any other law requires an agency to publish a general notice of proposed rulemaking for any proposed rule. Similarly, 5 U.S.C. 604 requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553 after that section or any other law requires publication of a general notice of proposed rulemaking. FAA concludes good cause exists to forgo notice and comment and not to delay the effective date for this rule. As 5 U.S.C. 553 does not require notice and comment in this situation, 5 U.S.C. 603 and 604 similarly do not require regulatory flexibility analyses.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39) prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to this Act, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires

consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

FAA has assessed the potential effect of this final rule and determined that its purpose is to protect the safety of U.S. civil aviation from risks to their operations in the Kabul FIR (OAKX), a location outside the U.S. Therefore, the rule complies with the Trade Agreements Act of 1979.

D. 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.” FAA currently uses an inflation-adjusted value of \$183 million in lieu of \$100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires the FAA to consider the impact of paperwork and other information collection burdens it imposes on the public. FAA has determined no new requirement for information collection is associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, FAA’s policy is to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. FAA has determined no ICAO Standards and Recommended Practices correspond to this regulation. FAA finds this action is

fully consistent with the obligations under 49 U.S.C. 40105(b)(1)(A) to ensure FAA exercises its duties consistently with the obligations of the United States under international agreements.

While FAA's flight prohibition does not apply to foreign air carriers, DOT codeshare authorizations prohibit foreign air carriers from carrying a U.S. codeshare partner's code on a flight segment that operates in airspace for which FAA has issued a flight prohibition for U.S. civil aviation. In addition, foreign air carriers and other foreign operators may choose to avoid, or be advised or directed by their civil aviation authorities to avoid, airspace for which FAA has issued a flight prohibition for U.S. civil aviation.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

FAA has analyzed this rule under the principles and criteria of Executive Order 13132. The agency has determined this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, this rule will not have federalism implications.

B. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

FAA analyzed this rule under Executive Order 13211. The agency has determined it is not a "significant energy action" under the executive order and will not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609 promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. FAA has

analyzed this action under the policies and agency responsibilities of Executive Order 13609 and has determined that this action will have no effect on international regulatory cooperation.

IX. Additional Information

A. Electronic Access

Except for classified and controlled unclassified information, all documents FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the Internet through the docket for this rulemaking.

Those documents may be viewed online at <https://www.regulations.gov> using the docket number listed above. A copy of this rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at <https://www.federalregister.gov> and the Government Publishing Office's website at <https://www.govinfo.gov>. A copy may also be found on FAA's Regulations and Policies website at https://www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W., Washington, D.C. 20591, or by calling (202) 267-9677.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104-121) (set forth as a note to 5 U.S.C. 601) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official or the persons listed under the **FOR FURTHER INFORMATION CONTACT** heading at the

beginning of the preamble. To find out more about SBREFA on the Internet, visit

http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects in 14 CFR Part 91

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

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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(f), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114-190, 130 Stat. 615 (49 U.S.C. 44703 note); Sec. 828 of Pub. L. 118-63, 138 Stat. 1330 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

2. Amend § 91.1619 by revising paragraph (e) to read as follows:

§ 91.1619 Special Federal Aviation Regulation No. 119—Prohibition Against Certain Flights in the Kabul Flight Information Region (FIR) (OAKX).

* * * * *

(e) *Expiration.* This SFAR will remain in effect until July 25, 2028. The FAA may amend, rescind, or extend this SFAR, as necessary.

Issued in Washington, D.C., under the authority of 49 U.S.C. 106(f), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5).

Christopher J. Rocheleau,

Acting Administrator.

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