International Civil Aviation Organization

MIDANPIRG/17 and RASG-MID/7 Meeting

(Cairo, Egypt, 15 – 18 April 2019)

Agenda Item 6.2: Air Navigation Planning and Implementation

CONTINGENCY PLANNING

(Presented by the Secretariat)

SUMMARY

This paper presents the regional and inter-regional activities related to contingency planning.

Action by the meeting is at paragraph 3.

REFERENCES

- MSG/6 Report

1. INTRODUCTION

1.1 In accordance with Annex 11 provisions, the Air traffic services authorities shall develop and promulgate contingency plans for implementation in the event of disruption, or potential disruption, of air traffic services and related supporting services in the airspace for which they are responsible for the provision of such services. Such contingency plans shall be developed with the assistance of ICAO as necessary, in close coordination with the air traffic services authorities responsible for the provision of services in adjacent portions of airspace and with airspace users concerned.

1.2 It is to be underlined that no contingency arrangement can be successful unless it has been consulted with all affected stakeholders, including *inter alia*, airlines, military, ATC units, and aerodrome operators. Each involved State must ensure that there is an adequate effort to identify potential problems that can be addressed in designing the contingency scheme, or mitigated as part of a safety analysis.

2. DISCUSSION

2.1 Taking into consideration that the signature of contingency agreements is a regional requirement in the MID Region and it is not mandated in the adjacent Regions, the MSG/6 meeting agreed that the signature of the contingency agreements with ACCs of the States at the interfaces with the ICAO MID Region be considered as “recommended” and not mandatory. Therefore, the meeting agreed that the deficiencies reported against the States at the interfaces for non-signature of contingency agreements should be removed.

2.2 The MSG/6 meeting noted that the above requirement should be reflected in the MID eANP, Volume II Part IV under Specific Regional Requirements. Accordingly, the meeting agreed to the following MSG Conclusion:

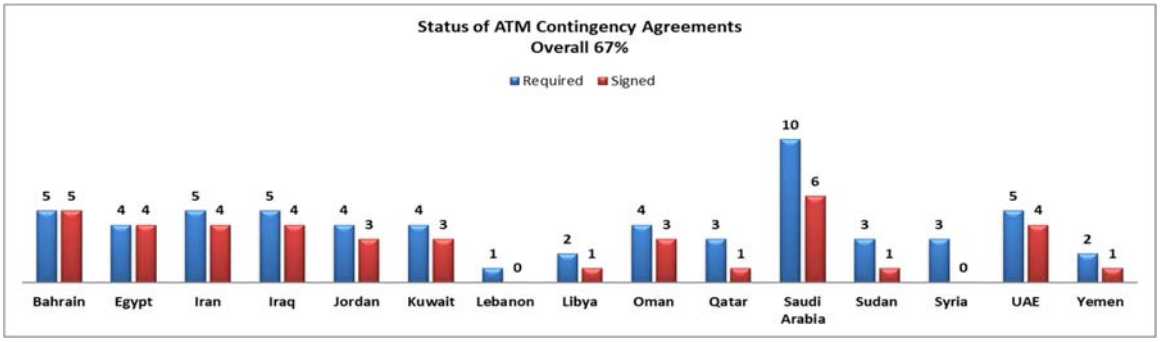
MSG CONCLUSION 6/15: DEFICIENCIES RELATED TO THE NON-SIGNATURE OF CONTINGENCY AGREEMENTS WITH STATES AT THE INTERFACE WITH ICAO MID REGION

That,

a) the MID eANP Volume II-Part IV (ATM) be amended to reflect the regional requirements related to the signature of ATM Contingency Agreements; and

b) the deficiencies related to the non-signature of contingency agreements with the States at the interfaces with the ICAO MID Region be removed.

2.3 The MSG/6 meeting reviewed the status of signed contingency agreements between adjacent ACCs as at **Appendix A**, which is reflected in the **Graph** below:



2.4 The meeting may wish to note that some airspace users continue to circumnavigate Baghdad, Damascus, Tripoli FIRs and Yemen Airspaces due to the conflict zones.

2.5 Several Contingency Coordination Teams (CCTs) have been established in accordance with the MID Region ATM Contingency Plan, which succeeded in the provision of a forum for sharing information, identifying the challenges and implementation of contingency measures/routes ensuring the safety of air traffic during contingency situations. The MID Region ATM Contingency Plan (MID Doc 003) is available on the ICAO MID Website: https://portal.icao.int/RO_MID/Pages/MIDDocs.aspx

2.6 The meeting may wish to recall that the MSG/6 meeting (Cairo, Egypt, 3 – 5 December 2019) commended States and Stakeholders for their commitment and excellent cooperation that ensured the success of the Contingency Coordination Team (CCT) framework.

2.7 The MSG/6 meeting noted that some of the world's largest carriers along with many international carriers operating within close proximity to each other at international hubs in the MID Region, during periods of disruption, including weather or ATC capacity limitations often lead to significant delays, diversion and unprecedented levels of airborne holding. This would require the development of a Demand Versus Capacity management program during periods of disruption to be published by States, as applicable.

2.8 The MSG/6 meeting recalled that the ATM SG/3 meeting through Draft Decision 3/4 established the MID ATM Contingency Plan Action Group to carry out a comprehensive review of the MID Region ATM Contingency Plan (MID Doc 003), taking into consideration the experience gained, the latest developments, and to include in the revised version measures and procedures enabling the CCTs to deal with airports and airspace disruptions due to weather or other factors in a timely and effective manner. The meeting agreed that the Action Group be composed of ATM experts from Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, UAE, AACO, IATA and ICAO.

2.9 Based on the above, the meeting agreed to the following MSG Decision:

MSG DECISION 6/14: MID ATM CONTINGENCY PLAN ACTION GROUP

That, the MID ATM Contingency Plan Action Group, composed of ATM experts from Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, UAE, AACO, IATA and ICAO, be established to carry out a comprehensive review of the MID Region ATM Contingency Plan (MID Doc 003).

2.10 With respect to Baghdad FIR, a recovery Plan for the normalization of traffic operation through Iraq Airspace has been successfully implemented since 29 November 2017 with continuous enhancements.

2.11 Considering the information received that some airlines would resume operations through Damascus Airspace, the First ATM Contingency Coordination Meeting for Syria was held in Amman, Jordan, 10-11 March 2019, based on the decision of the CCT for Syria. The Summary of Discussions of the ACCM/1-Syria is at **Appendix B**.

2.12 With respect to Libya, on 19 March 2019, the USA issued the Special Federal Aviation Regulation (SFAR) at **Appendix C**, which was shared with the CCT-Libya related to Tripoli FIR, modifying the prohibition to enable overflight above FL300. This is would be a significant step toward the return of traffic through Tripoli FIR. In this respect, the MID Office will be working with Libya and all stakeholders to agree on a roadmap for the normalization of traffic through Tripoli FIR.

3. ACTION BY THE MEETING

3.1 The meeting is invited to urge States to:

a) complete the signature of the contingency agreements with their adjacent States, if not yet done so; and

b) continue their effective support to the contingency planning activities.

STATUS OF CONTINGENCY AGREEMENTS IN THE MID REGION
As of December 2018

STATE	CORRESPONDING STATES			Status
BAHRAIN	☒ Iran ☒ Kuwait	☒ Qatar ☒ Saudi Arabia	☒ UAE	Completed
EGYPT	☒ Jordan ☒ Libya	☒ Saudi Arabia ☒ Sudan	☒ Cyprus (Recommended) ☒ Greece (Recommended) ☐ Israel (Recommended)	Completed
IRAN	☒ Bahrain ☒ Iraq	☐ Kuwait ☒ Oman	☒ UAE	4/5
	☒ Armenia ☐ Afghanistan	☐ Azerbaijan ☐ Turkmenistan	☒ Pakistan ☒ Turkey	Recommended
IRAQ	☒ Iran ☒ Jordan	☒ Kuwait ☒ Saudi Arabia	☐ Syria ☒Turkey (Recommended)	4/5
JORDAN	☒ Egypt ☒ Iraq	☒ Saudi Arabia ☐ Syria	☐ Israel (Recommended)	3/4
KUWAIT	☒ Bahrain ☐ Iran	☒ Iraq	☒ Saudi Arabia	3/4
LEBANON	☐ SYRIA	☐ CYPRUS (Recommended)		0/1
LIBYA	☒ Egypt ☐ Sudan	(Recommended) ☐ Algeria ☐ Chad	☐ Tunis ☐ Niger ☐ Malta	1/2
OMAN	☒ Iran ☐ Saudi Arabia	☒ UAE ☒ Yemen	☐ India (Recommended) ☐ Pakistan (Recommended)	3/4
QATAR	☒ BAHRAIN	☐ SAUDI ARABIA	☐ UAE	1/3
SAUDI ARABIA	☒ Bahrain ☒ Egypt ☒ Iraq ☒ Jordan	☒ Kuwait ☐ Oman ☐ Qatar ☐ Sudan	☒ UAE ☐ Yemen ☐ Eritrea(Recommended)	6/10
SUDAN	☒ Egypt ☐ Libya ☐ Saudi Arabia	(Recommended) ☐ Central African ☐ Chad	☐ Eritrea ☐ Ethiopia ☐ South Sudan	1/3
SYRIA	☐ Iraq ☐ Jordan	☐ Lebanon	☐ Cyprus (Recommended) ☐ Turkey (Recommended)	0/3
UAE	☒ Bahrain ☒Iran	☒ Oman ☐ Qatar	☒ Saudi Arabia	4/5
YEMEN	☒ Oman ☐ Saudi Arabia	(Recommended) ☐ India ☐ Djibouti	☐ Eritrea ☐ Ethiopia ☐ Somalia	1/2

☒ Agreement Signed ☐ Agreement NOT Signed Signed Agreements / Total No. of required Agreements

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INTERNATIONAL CIVIL AVIATION ORGANIZATION

FIRST ATM CONTINGENCY COORDINATION MEETING

(ACCM/1) - SYRIA

(Amman, Jordan, 10 - 11 March 2019)

SUMMARY OF DISCUSSIONS

1. PLACE AND DURATION

1.1 The First Air Traffic Management (ATM) Contingency Coordination Meeting (ACCM/1)-Syria was held in Amman, Jordan, from 10 to 11 March 2019. The meeting was kindly hosted by the Civil Aviation Regulatory Commission (CARC) - Jordan.

2. OPENING

2.1 The meeting was opened by Captain Adel Shannag, Director Flight Safety Management, Civil Aviation Regulatory Commission (CARC) – Jordan, who thanked ICAO for organizing this important meeting in Jordan and extended a warm welcome to all participants and wished them pleasant stay in Amman. Captain Shannag highlighted the approach taken by CARC to authorize Jordanian air carriers to re-operate through Damascus Flight Information Region (FIR), and indicated Jordan's commitment to continue its support to the regional activities in particular those related to contingency planning as required.

2.2 In his opening remarks, Mr. Elie El Khoury, Regional Officer, Air Traffic Management/Search and Rescue (RO/ATM/SAR), ICAO Middle East Office, On behalf of ICAO, welcomed all delegates to Amman and wished them a successful meeting and expressed his gratitude and appreciation to CARC-Jordan for hosting the meeting. He highlighted that the main objective of the meeting is to provide a platform for sharing information, coordination and to agree on ATM measures/action plan that would ensure that safety of air transport across the MID Region is maintained in case traffic resumed operations to/from and/or through Damascus FIR. Mr. El Khoury underlined that safety of civil aviation, which is considered as a continuous challenge, should be given the utmost importance and priority. He extended his appreciation to all States and IATA for their commitment and participation in the meeting.

3. ATTENDANCE

3.1 The meeting was attended by thirty-six (36) participants from Cyprus, Iraq, Jordan, Lebanon, UAE, USA and IATA. The list of participants is at **Attachment A**.

3.2 Syria did not attend the meeting due to unforeseen circumstances. However, the meeting noted with appreciation that Syria provided information related to the current status of the ATM operations within Damascus FIR.

3.3 In coordination with the States concerned and IATA it was agreed to go ahead with the meeting to share information, views, and agree on an action plan for the way forward.

4. OFFICERS AND SECRETARIAT

4.1 Mr. Elie El Khoury, ICAO Regional Officer, Air Traffic Management/Search and Rescue (RO/ATM/SAR) Middle East Office, was Secretary of the meeting.

5. DISCUSSIONS

5.1 The meeting reviewed and adopted the following Agenda of the meeting:

AI 1. Adoption of the Provisional Agenda
AI 2. Introduction by (ICAO)
AI 3. Review of Current Situation
AI 4. Coordination measures
AI 5. Closing

5.2 ICAO provided an overview of the MID Region ATM Contingency Plan (MID Doc 003) and the working arrangements of the Contingency Coordination Team (CCTs) and a brief on the situation since the establishment of the CCT for Syria in 2013.

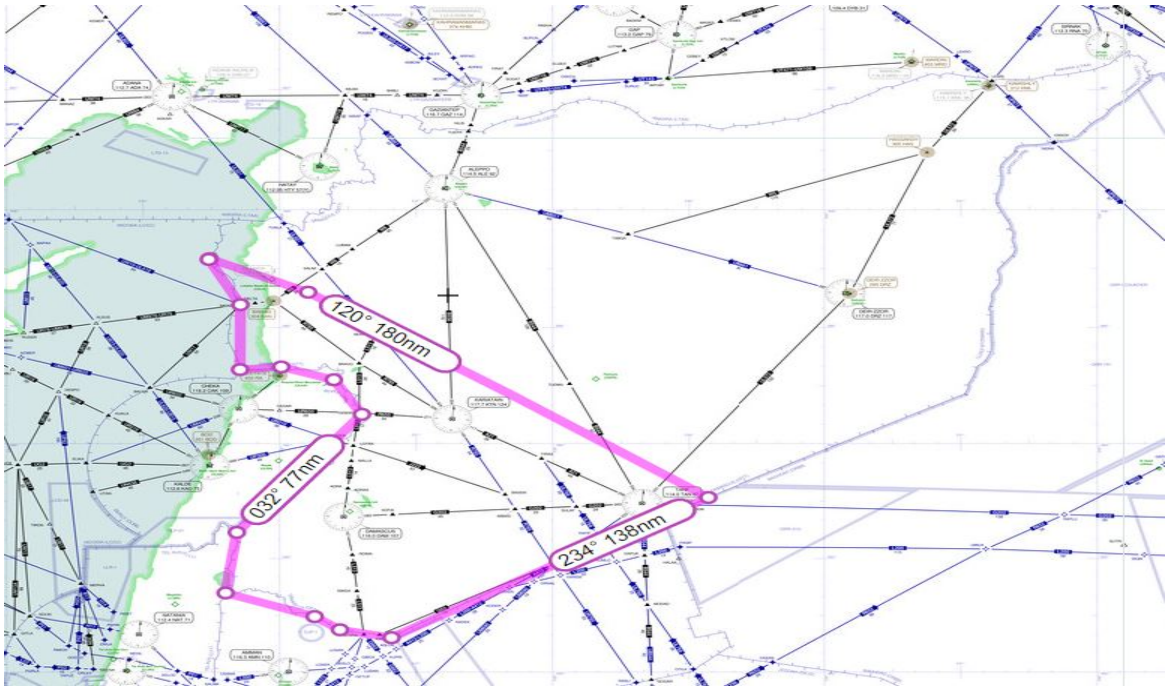
5.3 The meeting recalled that ICAO issued State Letters Ref.: AN 13/4.3.Open-13/25 dated 22 March 2013 and Ref.: AN 13/4.2-14/59 dated 24 July 2014 at **Appendix A**.

5.4 The meeting noted that the first State Letter invited States to communicate to national civil aircraft owners and operators, intending to operate within Damascus FIR, the need to fully assess the potential for risks to flight safety.

5.5 The second State Letter noted the need for close coordination between civil and military authorities in the event of armed conflict or the potential for armed conflict; and requested each State to keep under constant review the level of threat to civil aviation within its territory, and establish and implement policies and procedures to adjust relevant elements of its national civil aviation security programme accordingly, based upon a security risk assessment carried out by the relevant national authorities.

5.6 The meeting was apprised of the regional measures and arrangements that were collaboratively implemented to accommodate safely the return of air traffic through Iraq Airspace and Sana'a FIR (over high seas).

5.7 As reported by Syria through the Questionnaire, the ATS Route that would be used are depicted in the following **Chart** (all ATS routes inside the purple polygon).



5.8 Taking into consideration the challenges associated with GNSS interference, it was recommended to use the conventional ATS Routes supported by required navigation aids (VOR/DME) as the main routing or as back-up for RNAV ATS routes.

5.9 The meeting noted that the navigation aids were not maintained or flight checked due to the Sanction. In this respect, the meeting strongly recommended that necessary measures to be undertaken to ensure that the navigation aids in particular the VOR/DMEs (DAM, KTN, and TAN), supporting the ATS route structure, to be maintained and flight checked the soonest possible taking into consideration the impact on the safety of international air transport.

5.10 It was highlighted that the VORs within Syria's adjacent States would be used to support navigation on the ATS routes within Damascus FIR.

5.11 USA provided a brief overview of the Sanctions imposed on Syria and encouraged States and airlines to refer/contact the Office of Foreign Assets Control (OFAC) of the US Department of the Treasury through the following link https://www.treasury.gov/resource-center/sanctions/Programs/Pages/syria.aspx for additional information on the subject.

5.12 The meeting noted that CARC already communicated to the Jordanian air operators requesting them to provide their safety assessments to CARC in order to authorize them to overfly Damascus FIR as initial stage, in accordance with the directive issued by Jordan in this respect.

5.13 The meeting recognized the need for additional information from Syria to support civil aviation authorities and airlines with their safety and security assessments, such as a formal confirmation letter indicating the airspaces and ATS routes that are not affected by conflict zones and military activities (Safe to Fly) and the measures undertaken to ensure safe air operations within Damascus FIR.

5.14 The meeting invited ICAO MID Office to follow-up with Syria on the publication through aeronautical information the restricted/dangerous/prohibited airspaces in accordance with ICAO provisions and to encourage Syria to establish civil/military cooperation procedures to ensure effective coordination/sharing of information that would have impact on the safety of civilian flights within Damascus FIR.

5.15 Cyprus raised concern related to the impact on provision of effective ATS within Nicosia FIR in case traffic resumed operation to/from Damascus FIR through NIKAS and BALMA, considering that the East Sector should be prepared to manage again the traffic after years of low level of movements. The meeting noted that Cyprus already put in place a plan to split the mentioned sector into 2 sectors to accommodate safely and efficiently the current and future traffic flows. However, to succeed in this task adequate time for preparation, coordination and implementation should be provided.

5.16 The meeting noted that currently adjacent States to Syria would be able to accommodate a limited number of traffic resuming operation through Damascus FIR. However, an agreement on collaborative ATM Transition Plan would support States to handle more traffic, which should include the preparation of Air Traffic Controllers Officers (ATCOs) to handle the changes to the traffic flow in a safe and efficient manner.

5.17 The meeting urged adjacent States to Syria to work together and with Syria on the agreement and implementation of necessary ATM measures and to update the ATS Letter of Agreements (LoAs) accordingly.

5.18 The meeting noted with appreciation Lebanon's willingness to share the radar data with Syria depending on the capability of the ATM system in Syria. Jordan highlighted that the possibility for sharing their radar data with Syria is still under study.

5.19 The meeting agreed to the following Action Plan for the way forward:

Action		Time Frame	Responsible	Remark
1.	Confirmation Letter from Syria to the ICAO MID Office defining the secured airspaces and ATS Routes to be used (Safe To Fly)	15 Apr 2019	Syria	
2.	Competency of ATCOs (qualifications, training, recency) to accommodate the changes to traffic flows and the potential increase of traffic in some ATS units/sectors	Continuous	Cyprus Jordan Lebanon Syria	
3.	Establish civil/military cooperation procedures to ensure effective coordination/ sharing of information that would have impact on the safety of civilian flights within Damascus FIR	TBD	Syria	
4.	Define and publish the restricted/dangerous/prohibited areas through Aeronautical Publication	TBD	Syria	
5.	Review, amend and publish the updated AIP	AIRAC 20 Jun 2019	Syria	
6.	Repair the unserviceable navigation aids in particular KTN and TAN VOR/DMEs and ensure that the all the operational navigation aids are flight checked periodically in accordance with ICAO Provisions, in particular DAM, KTN and TAN VOR/DMEs.	As soon as possible	Syria	To explore means for support
7.	Agreement on necessary ATM measures to ensure the safety and orderly flow of traffic.	15 May 2019	Cyprus, Iraq Jordan, Lebanon Syria, IATA and ICAO	
8.	Review and update of ATS LoAs between Damascus ACC and its adjacent ACCs using the MID Region ATS LoA Template	30 May 2019	Cyprus, Iraq Jordan, Lebanon Syria, IATA and ICAO	
9.	Feedback on the possibility for Radar Data Sharing with Syria	30 Mar 2019	Jordan Lebanon Syria	
10.	Feedback on the ATM operations issues from the airlines that have been using Damascus FIR	15 Apr 2019	IATA	State of operator would also support
11.	Feedback from airlines on their intention to use Damascus FIR including the potential daily number of flights and routing.	15 May 2019	IATA	
12.	Development of a document to compile the airlines operating restrictions/procedures to be applied when operating within Damascus FIR to be communicated to the ATS Units concerned including those related to non-standard emergency procedures.	30 Jun 2019	IATA ICAO	Could be published on ICAO MID website
13.	Assessment of the potential impact on traffic flow in case airlines resumed operation through Damascus FIR	15 May 2109	EUROCO-NTROL or MIDRMA	
14.	Review of instrument approach procedures	TBD	Syria	
15.	Review the restrictions imposed on the use of Damascus FIR by Civil Aviation Authorities	TBD	CAAs	
16.	Review the ICAO State Letter Ref.: AN 13/4.3.Open-13/25 dated 22 March 2013 based on the latest developments and ICAO internal process and policies.	TBD	ICAO	

5.20 The meeting agreed that a second meeting in presence of Syria might be required, tentatively in the second half of June 2019. Jordan offered to host the ACCM/2-Syria in Amman. The meeting agreed that the exact dates and venue of the ACCM/2-Syria will be coordinated and communicated in due course by the ICAO MID Office.

6. CLOSING

6.1 All participants reassured their commitment to ensure the safety of air transport across the MID Region and to support the ICAO's efforts in this regard. The participants thanked ICAO for organizing and Jordan for hosting such an important meeting.

United Kingdom and the European Union pursuant to Article 50(2);

(iv) The amendments do not modify any of the following: The payment amount calculation methods, the maturity date, or the notional amount of the swap;

(v) The amendments cause the transfer to take effect on or after the date of the event described in paragraph (h)(2)(iii) of this section transpires; and

(iv) The amendments cause the transfer to take effect by the later of:

(A) The date that is one year after the date of the event described in paragraph (h)(2)(iii) of this section; or

(B) Such other date permitted by transitional provisions under Article 35 of Commission Delegated Regulation (E.U.) No. 2016/2251, as amended.

FEDERAL HOUSING FINANCE AGENCY

Authority and Issuance

For the reasons set forth in the preamble, the Federal Housing Finance Agency amends chapter XII of title 12, Code of Federal Regulations, as follows:

PART 1221—MARGIN AND CAPITAL REQUIREMENTS FOR COVERED SWAP ENTITIES

■ 1. The authority citation for part 1221 continues to read as follows:

Authority: 7 U.S.C. 6s(e), 15 U.S.C. 78o–10(e), 12 U.S.C. 4513, and 12 U.S.C. 4526(a).

■ 2. Section 1221.1 is amended by adding paragraph (h) to read as follows:

§ 1221.1 Authority, purpose, scope, exemptions, and compliance dates.

* * * * *

(h) *Legacy swaps.* Covered swaps entities are required to comply with the requirements of this part for non-cleared swaps and non-cleared security-based swaps entered into on or after the relevant compliance dates for variation margin and for initial margin established in paragraph (e) of this section. Any non-cleared swap or non-cleared security-based swap entered into before such relevant date shall remain outside the scope of this part if changes are made to it as follows:

(1) [Reserved]

(2) The non-cleared swap or non-cleared security based swap was amended under the following conditions:

(i) The swap was originally entered into before the relevant compliance date established in paragraph (e) of this section and one party to the swap booked it at, or otherwise held it at, an entity (including a branch or other authorized form of establishment) located in the United Kingdom;

(ii) The entity in the United Kingdom subsequently arranged to amend the swap, solely for the purpose of transferring it to an affiliate, or a branch or other authorized form of establishment, located in any European Union member state or the United States, in connection with the entity's planning for or response to the event described in paragraph (h)(2)(iii) of this section, and the transferee is:

(A) A covered swap entity, or

(B) A covered swap entity's counterparty to the swap, and the counterparty represents to the covered swap entity that the counterparty performed the transfer in compliance with the requirements of paragraphs (h)(2)(i) and (ii) of this section;

(iii) The law of the European Union ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, without conclusion of a Withdrawal Agreement between the United Kingdom and the European Union pursuant to Article 50(2);

(iv) The amendments do not modify any of the following: The payment amount calculation methods, the maturity date, or the notional amount of the swap;

(v) The amendments cause the transfer to take effect on or after the date of the event described in paragraph (h)(2)(iii) of this section transpires; and

(vi) The amendments cause the transfer to take effect by the later of:

(A) The date that is one year after the date of the event described in paragraph (h)(2)(iii) of this section; or

(B) Such other date permitted by transitional provisions under Article 35 of Commission Delegated Regulation (E.U.) No. 2016/2251, as amended.

Dated: March 7, 2019.

Joseph M. Otting,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, March 12, 2019.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

Dated at Washington, DC, on March 8, 2019.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

By order of the Board of the Farm Credit Administration.

Dated at McLean, VA, this 5th day of March 2019.

Dale L. Aultman,

Secretary.

Dated: March 7, 2019.

Joseph M. Otting,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2019–05012 Filed 3–18–19; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P, 6714–01–P, 8070–01–P, 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2011–0246; Amdt. No. 91–321D]

RIN 2120–AL40

Amendment of the Prohibition Against Certain Flights in the Tripoli Flight Information Region (FIR) (HLLL)

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

ACTION: Final rule.

SUMMARY: This action extends, with modifications to reflect changed conditions in Libya, the Special Federal Aviation Regulation (SFAR) prohibiting certain flight operations in the Tripoli Flight Information Region (FIR) (HLLL) by all: United States (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 where the operator of such aircraft is a foreign air carrier. This action extends the prohibition of U.S. civil flight operations in the Tripoli FIR (HLLL) at altitudes below Flight Level (FL) 300 to safeguard against continuing hazards to U.S. civil aviation. However, this action also reduces the scope of the prohibition, permitting U.S. civil aviation overflights of the Tripoli FIR (HLLL) at altitudes at and above FL300 to resume, due to the reduced risk to U.S. civil aviation operations at those altitudes. The FAA also republishes, with minor revisions, the approval process and exemption information for this SFAR, consistent with other recently published flight prohibition SFARs; makes a minor editorial change to the title of the rule; and makes other minor revisions for consistency with other recently published flight prohibition SFARs.

DATES: This final rule is effective on March 19, 2019.

FOR FURTHER INFORMATION CONTACT: Dale E. Roberts, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202–267–8166; email *dale.e.roberts@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This action extends, with modifications to reflect changed conditions in Libya, the prohibition against certain U.S. civil flight operations in the Tripoli FIR (HLLL) 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 where the operator of such aircraft is a foreign air carrier, from March 20, 2019, to March 20, 2021. The FAA finds that security and safety conditions in the Tripoli FIR (HLLL) at altitudes at or above FL300 support allowing U.S. civil overflight operations at cruising altitudes at or above FL300 to resume. Extremist/militant elements operating in Libya are believed not to possess anti-aircraft weapons capable of threatening U.S. civil aviation operations at or above FL260, and there is a lower risk of civil-military deconfliction concerns at cruising altitudes at or above FL300. However, the FAA finds the extension of the prohibition on U.S. civil aviation operations in the Tripoli FIR (HLLL) at altitudes below FL300 is necessary to safeguard against continuing hazards to U.S. civil aviation associated with ongoing political instability, fighting involving various militia/extremist/militant elements, and military activity by foreign sponsors supporting various elements operating in Libya.

The FAA also republishes, with minor revisions, the approval process and exemption information for this SFAR, consistent with other recently published flight prohibition SFARs; makes a minor editorial change to the title of the rule; and makes other minor revisions for consistency with other recently published flight prohibition SFARs.

II. Legal Authority and Good Cause

A. Legal Authority

The FAA is responsible for the safety of flight in the U.S. and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. The FAA Administrator's authority to issue rules on aviation safety is found in title 49, U.S. Code, Subtitle I, sections 106(f) and (g). 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, subpart III, section 44701, General requirements. Under that section, the 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. 112, § 91.1603, from conducting flight operations in the Tripoli FIR (HLLL) at altitudes below FL300 due to the continuing hazards to the safety of U.S. civil flight operations at those altitudes, as described in the preamble to this final rule.

B. Good Cause for Immediate Adoption

Section 553(b)(3)(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.'' Section 553(d) also authorizes agencies to forgo the delay in the effective date of the final rule for good cause found and published with the rule. In this instance, the FAA finds good cause to forgo notice and comment because notice and comment would be impracticable and contrary to the public interest. In addition, it is contrary to the public interest to delay the effective date of this SFAR.

The risk environment for U.S. civil aviation in airspace managed by other countries with respect to safety of flight risks posed by weapons capable of targeting, or otherwise negatively affecting, U.S. civil aviation, as well as other hazards to U.S. civil aviation associated with fighting, extremist/militant activity, or heightened tensions, is fluid. This fluidity and the need for the FAA to rely upon classified information in assessing these risks make seeking notice and comment impracticable and contrary to the public interest. With respect to the impracticability of notice and comment procedures, 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 the FAA can usefully assess the risk environment. The fluid nature of these risks also means that the FAA's original proposal could become unsuitable for minimizing the hazards to U.S. civil aviation in the affected airspace during or after any public notice and comment process. Furthermore, to the extent that these rules and any amendments to them are based upon classified information, the FAA is not legally permitted to share such information with the general public, who cannot meaningfully comment on information to which they are not legally allowed access.

Under these conditions, public interest considerations also favor not seeking notice and comment for these rules and any amendments to them. While there is a public interest in having an opportunity for the public to comment on agency action, there is a greater public interest in having the FAA's flight prohibitions, and any amendments thereto, reflect the agency's most current understanding of the risk environment for U.S. civil aviation. This allows the FAA to appropriately protect the safety of U.S. operators' aircraft and the lives of their passengers and crews without over-restricting U.S. operators' routing options. The FAA has identified an ongoing need to maintain the flight prohibition for U.S. civil aviation operations at altitudes below FL300 in the Tripoli FIR (HLLL) due to continued safety-of-flight hazards associated with ongoing political instability, fighting involving various militia/extremist/militant elements, and military activity by foreign sponsors supporting various elements operating in Libya. These hazards, which are further described in the preamble to this rule, require that the FAA's flight prohibition for U.S. civil aviation operations be continued without interruption for altitudes below FL300. For altitudes at or above FL300, any delay in the effective date of the rule would continue a prohibition on U.S. civil overflights at those altitudes that the FAA has determined is no longer needed for the safety of U.S. civil aviation and would thus unnecessarily restrict U.S. operators' routing options at those altitudes.

For these reasons, the FAA finds good cause to forgo notice and comment and

any delay in the effective date for this rule.

III. Background

As a result of safety and national security concerns regarding flight operations in the Tripoli FIR (HLLL), the FAA issued SFAR No. 112, § 91.1603, in March 2011,[1] prohibiting 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 were operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except operators of such aircraft that were foreign air carriers, from conducting flight operations in the Tripoli FIR (HLLL), except as provided in paragraphs (c) and (d) of the regulation.

When SFAR No. 112, § 91.1603, was first issued, an armed conflict was ongoing in Libya, which presented a hazard to U.S. civil aviation. The FAA was concerned that runways at Libya's international airports, including the main international airports serving Benghazi (HLLB) and Tripoli (HLLT), might be damaged or degraded. There was also concern that air navigation services in the Tripoli FIR (HLLL) might be unavailable or degraded. In addition, the proliferation of air defense weapons, including Man-Portable Air-Defense Systems (MANPADS), and the presence of military operations, including Libyan aerial bombardments and unplanned military flights entering and departing the Tripoli FIR (HLLL), posed a hazard to U.S. civil operators, U.S.-registered civil aircraft, and FAA-certificated airmen that might operate in the Tripoli FIR (HLLL). Additionally, the United Nations Security Council had adopted Resolution 1973 on March 18, 2011, which mandated a ban on all flights in the airspace of Libya, with certain exceptions.

By March 2014, although former Libyan leader Muammar Gaddafi's regime had been overthrown, and the UN-mandated ban on flights in Libyan airspace had been lifted, the FAA continued to have significant security concerns for Libya and for the safety of U.S. civil aviation operations in the country. On March 20, 2014, the FAA extended the expiration date of SFAR No. 112, § 91.1603, to March 20, 2015.[2] The FAA considered that, on December 12, 2013, the Department of State had issued a Travel Warning strongly advising against all non-essential travel to Libya. Additionally, many military-grade weapons remained in the hands of private individuals and groups, among them anti-aircraft weapons that could be used against civil aviation, including MANPADS.

In March 2015, the FAA continued to have significant concerns regarding the safety of U.S. civil aviation operations in the Tripoli FIR (HLLL) at all altitudes due to the hazardous situation created by the ongoing fighting involving various militant groups and Libyan military forces in various areas of Libya, including some near Tripoli and Benghazi. Islamist militant groups held and controlled significant portions of Western Libya, including areas in close proximity to Tripoli International Airport (HLLT). Militant groups, such as Libyan Dawn, possessed a variety of anti-aircraft weapons, which gave them the capability to target aircraft upon landing and departure and at higher altitudes. Civil aviation infrastructure continued to be at risk from indirect fire from mortars and rockets targeting Libyan airports during the ongoing fighting. For these reasons, the FAA extended the expiration date of SFAR No. 112, § 91.1603, from March 20, 2015, to March 20, 2017.[3]

In March 2017, the FAA continued to assess the situation in the Tripoli FIR (HLLL) as being hazardous for U.S. civil aviation. The newly-established interim government did not control vast portions of Libyan territory, security conditions remained unstable throughout the country, and the FAA was concerned that fighting could flare up with little or no warning as various elements vied for political influence and territorial control. Anti-aircraft-capable weapons remained a continuing threat, as demonstrated by the July 2016 shoot down of a military helicopter near Benghazi. Therefore, since there was a significant continuing risk to the safety of U.S. civil aviation in the Tripoli FIR (HLLL), the FAA extended the expiration date of SFAR No. 112, § 91.1603, from March 20, 2017, to March 20, 2019.[4]

IV. Discussion of the Final Rule

Since the 2017 final rule, the FAA finds that security and safety conditions have sufficiently improved to allow U.S. civil flights to operate in the Tripoli FIR (HLLL) at altitudes at or above FL300. However, the FAA finds an extension of the prohibition is necessary for altitudes below FL300 to safeguard against continuing hazards to U.S. civil aviation.

Extremist/militant elements operating in Libya are believed not to possess anti-aircraft weapons capable of threatening U.S. civil aviation operations at or above FL260, and there is a lower risk of civil-military deconfliction concerns at cruising altitudes at or above FL300. Based on this assessment, the FAA has determined that overflights of the Tripoli FIR (HLLL) may be conducted safely at or above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Libya.

Currently, there are two air navigation service providers (ANSPs) operating in the Tripoli FIR (HLLL). The Tripoli-based ANSP is recognized by the International Civil Aviation Organization (ICAO) and has issued an Aeronautical Information Publication (AIP) and a NOTAM containing overflight procedures for civil aviation operations in the Tripoli FIR (HLLL). The ANSP in Benghazi provides air navigation services in the eastern part of the country. Despite the fact that there are two ANSPs operating in the Tripoli FIR (HLLL), the FAA has determined that this situation poses a minimal safety risk to U.S. civil overflight operations. There are appropriately publicized overflight instructions in the AIP and NOTAM. Additionally, the FAA has not received any reports of the two ANSPs providing conflicting guidance to civil aircraft or otherwise behaving in ways that would pose safety of flight concerns for international overflights.

For these reasons, the FAA has determined the risk to U.S. civil aviation in the Tripoli FIR (HLLL) has been sufficiently reduced to permit U.S. civil aviation operations at or above FL300. This change allows U.S. operators the option of using certain air routes connecting Europe with central Africa and western Africa with the Middle East. Operators are reminded to review current aeronautical information, including the relevant AIP and all applicable NOTAMS, prior to conducting flight operations in the Tripoli FIR (HLLL) at or above FL300; maintain communications with air traffic control; and follow air traffic control instructions.

The FAA remains concerned about the hazards to U.S. civil aviation operations in the Tripoli FIR (HLLL) at altitudes below FL300, which necessitate a continuing flight prohibition for those altitudes. These hazards relate to continued instability in Libya, fighting involving various militia/extremist/militant elements, the ready availability to extremists/militants of anti-aircraft-capable weapons, and

[1] 76 FR 16238, March 23, 2011.

[2] 79 FR 15679, March 20, 2014, corrected at 79 FR 19288, April 8, 2014.

[3] 80 FR 15503, March 24, 2015.

[4] 82 FR 14433, March 21, 2017.

aerial activity by foreign sponsors supporting various elements operating in Libya that may not be adequately de-conflicted with civil air traffic. The risks to U.S. civil aviation are greatest at airports in Libya and during low altitude operations near airports or in areas of actual or potential fighting.

Libya remains politically unstable, with a fragile security situation. Since the fall of the Gaddafi regime, Libya has struggled with a power vacuum, a limited security apparatus, and limited territorial control. There are multiple extremist/militant groups with footholds in Libya that are armed with anti-aircraft-capable weapons. Various militia/extremist/militant groups continue to vie for strategic influence and control of vital infrastructure, including airports. Competing armed factions have periodically clashed in close proximity to Mitiga International Airport (HLLM) in Tripoli, resulting in multiple flight disruptions. In October 2017, a Libyan Airlines A330 flying at low altitude near HLLM suffered damage from small-arms fire associated with such a clash. In January 2017, factional fighting resulted in a five-day closure of the airport and damage to multiple passenger aircraft that were on the tarmac by artillery or small-arms fire. Clashes erupted near the airport again in August 2018, resulting in multiple flight disruptions and closures of the airport throughout September 2018. On August 31, 2018, indirect fire damaged at least one hangar at HLLM, and, in October 2018, a rocket attack resulted in aircraft being relocated away from the airport and inbound flights rerouted.

Additionally, violent extremists/militants active in Libya possess, or have access to, a wide array of anti-aircraft-capable weapons posing a risk to U.S. civil aviation operating at altitudes below FL260. Aerial activity of foreign sponsors supporting various factions in Libya occurs primarily at altitudes below FL300. This amendment permits U.S. civil overflights of the Tripoli FIR (HLLL) only at FL300 and above. Foreign sponsor aerial activities that present civil-military deconfliction challenges at altitudes below FL300 include a variety of unmanned aircraft systems (UAS) and other military aircraft operations, along with the potential for electronic interference from counter-UAS measures. While aircraft overflying the Tripoli FIR (HLLL) at altitudes at or above FL300 could potentially encounter electronic interference from counter-UAS measures, such interference would not present a significant flight safety hazard. At cruising altitudes at or above FL300, pilots would have sufficient time to recognize the interference and respond to it by the use of, and verification from, other instruments or navigation aids.

Therefore, based on the changed circumstances in the Tripoli FIR (HLLL) at altitudes at and above FL300, the FAA is modifying its flight prohibition for U.S. civil aviation to permit overflights of the Tripoli FIR (HLLL) at altitudes at and above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Libya. However, as a result of the significant continuing risk to the safety of U.S. civil aviation operating at altitudes below FL300 in the Tripoli FIR (HLLL), the FAA extends the expiration date of SFAR No. 112, § 91.1603, from March 20, 2019 to March 20, 2021, and maintains its prohibition of U.S. civil flight operations in the Tripoli FIR (HLLL) at altitudes below FL300.

The FAA will continue to actively monitor the situation and evaluate the extent to which U.S. civil operators and airmen may be able to operate safely in the Tripoli FIR (HLLL) at altitudes below FL300. Amendments to SFAR No. 112, § 91.1603, may be appropriate if the risk to aviation safety and security changes. The FAA may amend or rescind SFAR No. 112, § 91.1603, as necessary, prior to its expiration date.

The FAA also republishes, with minor revisions, the approval process and exemption information for this SFAR, so that persons described in paragraph (a) of the rule may refer to this final rule, rather than having to search through previous final rules to find the relevant approval process and exemption information. This approval process and exemption information is consistent with other similar SFARs and recent agency practice. In addition, the FAA is making an editorial correction to the title of the rule so that the ICAO four-letter FIR identification code appears in parentheses after ''Tripoli Flight Information Region'' or ''Tripoli FIR,'' in accordance with the title formatting of more recently published SFARs. The FAA also makes other minor revisions for consistency with other recently published flight prohibition SFARs.

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 Tripoli FIR (HLLL) at altitudes below FL300. If a department, agency, or instrumentality of the U.S. Government determines that it has a critical need to engage any person described in SFAR No. 112, § 91.1603, including a U.S. air carrier or commercial operator, to conduct a charter to transport civilian or military passengers or cargo, or other operations, in the Tripoli FIR (HLLL) at altitudes below FL300, that department, agency, or instrumentality may request the FAA to approve persons described in SFAR No. 112, § 91.1603, to conduct such operations.

An approval request must be made directly by the requesting department, agency, or instrumentality of the U.S. Government 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. The FAA will not accept or consider requests for approval by anyone other than the requesting department, agency, or instrumentality. In addition, the senior official signing the letter requesting FAA approval on behalf of the requesting department, agency, or instrumentality must be sufficiently positioned within the organization to demonstrate that the senior leadership of the requesting department, agency, or instrumentality supports the request for approval and is committed to taking all necessary steps to minimize operational 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 the 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, requests for approval must be submitted to the FAA no less than 30 calendar days before the date on which the requesting department, agency, or instrumentality wishes the proposed operations to commence.

The letter must be sent to the Associate Administrator for Aviation Safety, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591. Electronic submissions are acceptable, and the requesting entity may request that the FAA notify it electronically as to whether the approval request is granted. If a requestor wishes to make an electronic submission to the FAA, the requestor should contact the Air

Transportation Division, Flight Standards Service, at (202) 267–8166, to obtain the appropriate email address. A single letter may request approval from the FAA for multiple persons described in SFAR No. 112, § 91.1603, and/or for multiple flight operations. To the extent known, the letter must identify the person(s) expected to be covered under the SFAR on whose behalf the U.S. Government department, agency, or instrumentality is seeking FAA approval, and it must describe—

- The proposed operation(s), including the nature of the mission being supported;
- The service to be provided by the person(s) covered by the SFAR;
- To the extent known, the specific locations in the Tripoli FIR (HLLL) at altitudes below FL300 where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Tripoli FIR (HLLL) at altitudes below FL300 and the airports, airfields and/or landing zones at which the aircraft will take-off and land; and
- The method by which the 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.,* 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 Tripoli FIR (HLLL) at altitudes below FL300. Additional operators may be identified to the FAA at any time after the FAA approval is issued. However, all additional operators must be identified to, and obtain an Operations Specification (OpSpec) or Letter of Authorization (LOA) from, the FAA, as appropriate, for operations in the Tripoli FIR (HLLL) at altitudes below FL300, before such operators commence such operations. The approval conditions discussed below apply to any such additional operators. Updated lists should be sent to the email address to be obtained from the Air Transportation Division, by calling (202) 267–8166.

If an approval request includes classified information, requestors may contact Aviation Safety Inspector Dale E. Roberts for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

FAA approval of an operation under SFAR No. 112, § 91.1603, does not relieve persons subject to this SFAR of their responsibility to comply with all other applicable FAA rules and regulations. Operators of civil aircraft must comply with the conditions of their certificate, OpSpecs, and LOAs, as applicable. Operators must also comply with all rules and regulations of other U.S. Government departments or agencies that may apply to the proposed operation(s), including, but not limited to, regulations issued by the Transportation Security Administration.

B. Approval Conditions

If the FAA approves the request, the FAA's Aviation Safety Organization will send an approval letter to the requesting department, agency, or instrumentality informing it that the 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 the 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 Tripoli FIR (HLLL) at altitudes below FL300; 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 from or related to the approved operations in the Tripoli FIR (HLLL) at altitudes below FL300.

(3) Other conditions that the FAA may specify, including those that may be imposed 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 issued by the FAA under chapter 443 of title 49, U.S. Code.

If the FAA approves the proposed operation(s), the FAA will issue an OpSpec or a LOA, as applicable, to the operator(s) identified in the original request authorizing them to conduct the approved operation(s), and will notify the department, agency, or instrumentality that requested the FAA approval of any additional conditions beyond those contained in the approval letter.

VI. Information Regarding Petitions for Exemption

Any operations not conducted under an approval issued by the FAA through the approval process set forth previously must be conducted under an exemption from SFAR No. 112, § 91.1603. A petition for exemption must comply with 14 CFR part 11 and requires exceptional circumstances beyond those contemplated by the approval process described in the previous section. In addition to the information required by 14 CFR 11.81, at a minimum, the requestor must describe in its submission to the FAA—

- The proposed operation(s), including the nature of the operation;
- The service to be provided by the person(s) covered by the SFAR;
- The specific locations in the Tripoli FIR (HLLL) at altitudes below FL300 where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Tripoli FIR (HLLL) at altitudes below FL300 and the airports, airfields and/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 that the operator will use to minimize the risks, identified in this preamble, to the proposed operations, so that granting the exemption would not adversely affect safety or would provide a level of safety at least equal to that provided by this SFAR. *Note:* The FAA has found comprehensive, organized plans and procedures to be helpful in facilitating the agency's safety evaluation of petitions for exemption from flight prohibition SFARs.

Additionally, the release and agreement to indemnify, as referred to previously, are required as a condition of any exemption that may be issued under SFAR No. 112, § 91.1603.

The FAA recognizes that operations that may be affected by SFAR No. 112, § 91.1603, may be planned for the governments of other countries with the support of the U.S. Government. While these operations will not be permitted through the approval process, the FAA will consider exemption requests for such operations on an expedited basis

and prior to any private exemption requests.

If a petition for exemption includes security-sensitive or proprietary information, requestors may contact Aviation Safety Inspector Dale E. Roberts for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

VII. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 13563 direct 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), as codified in 5 U.S.C. 603 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Pub. L. 96–39), as codified in 19 U.S.C. chapter 13, prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements 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), as codified in 2 U.S.C. chapter 25, 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 final rule.

In conducting these analyses, the FAA has determined that this final rule has benefits that justify its costs. This rule is a significant regulatory action, as defined in section 3(f) of Executive Order 12866, as it raises novel policy issues contemplated under that Executive Order. As notice and comment under 5 U.S.C. 553 are not required for this final rule, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 regarding impacts on small entities are not required. This rule will not create unnecessary obstacles to the foreign commerce of the United States. This rule will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, by exceeding the threshold identified previously.

A. Regulatory Evaluation

This action extends the expiration date of SFAR No. 112, § 91.1603, until March 20, 2021, and amends the rule to allow U.S. civil flight operations at altitudes at or above FL300 in the Tripoli FIR (HLLL). The FAA has determined that continuing to prohibit U.S. civil flight operations at altitudes below FL300 in the Tripoli FIR (HLLL) imposes only minimal cost, because few operators subject to the rule wish to operate in that airspace, owing to the continuing significant hazards to U.S. civil aviation therein, as detailed in the preamble of this final rule. The final rule provides an approval process, as previously described, for U.S. Government departments, agencies, and instrumentalities needing to engage U.S. civil aviation to support their activities in the Tripoli FIR (HLLL) at altitudes below FL300. Since 2011, when SFAR No. 112 was first issued, the FAA has granted a small number of such approvals, only two of which are currently active. Further supporting the finding, the FAA has only received one petition for exemption from SFAR No. 112, § 91.1603, since its original issuance in 2011. That petition for exemption was subsequently withdrawn by the petitioner. As a result, the FAA finds the rule to be cost-beneficial, since the costs to the few operators who might wish to operate in the Tripoli FIR (HLLL) at altitudes below FL300 are exceeded by the benefits of avoiding significant loss of life, injuries, and property damage that might result if a U.S. operator's aircraft were downed by any of the hazards described in the preamble to this final rule.

The FAA has determined, however, that extremist/militant elements operating in Libya are assessed not to possess anti-aircraft weapons capable of threatening U.S. civil aviation above FL260 and has also determined that there is a reduced risk of civil-military deconfliction concerns at cruising altitudes above FL300. Based on these assessments, this action amends the rule to allow overflights of the Tripoli FIR (HLLL) by U.S. civil operators and airmen at or above FL300. This provision is cost-beneficial, because it allows U.S. civil aviation operators the option of using certain air routes connecting Europe with central Africa and western Africa with the Middle East. These expected benefits outweigh the expected costs associated with the residual risk to U.S. civil aviation operations at or above FL300 from the hazards described in the preamble to this final rule.

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 an agency is required by 5 U.S.C. 553, or any other law, 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 being required by that section or any other law to publish a general notice of proposed rulemaking. The FAA found good cause to forgo notice and comment and any delay in the effective date for this rule. As notice and comment under 5 U.S.C. 553 are not required in this situation, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are not required.

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.

The 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 hazards to aircraft operations in the Tripoli FIR (HLLL), a location outside the U.S. Therefore, this final 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.'' The FAA currently uses an inflation-adjusted value of $155 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 that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA's policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined there are no ICAO Standards and Recommended Practices that correspond to this regulation.

While the 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 the FAA has issued a flight prohibition. In addition, foreign air carriers and other foreign operators may choose to avoid, or be advised/directed by their civil aviation authorities to avoid, airspace for which the FAA has issued a flight prohibition.

G. Environmental Analysis

The FAA has analyzed this action under Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957, January 4, 1979), and DOT Order 5610.1C, Paragraph 16. Executive Order 12114 requires the FAA to be informed of environmental considerations and take those considerations into account when making decisions on major Federal actions that could have environmental impacts anywhere beyond the borders of the United States. The FAA has determined this action is exempt pursuant to Section 2–5(a)(i) of Executive Order 12114, because it does not have the potential for a significant effect on the environment outside the United States.

In accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 8–6(c), FAA has prepared a memorandum for the record stating the reason(s) for this determination; this memorandum has been placed in the docket for this rulemaking.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined this action would 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, and, therefore, would not have Federalism implications.

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

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would 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, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) 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. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

D. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of E.O. 13771 (82 FR 9339, Feb. 3, 2017) because it is issued with respect to a national security function of the United States.

IX. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of a rulemaking document may be obtained from the internet by—

- Searching the Federal Document Management System (FDMS) Portal (*http://www.regulations.gov*);
- Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies;* or
- Accessing the Government Publishing Office's web page at *http://www.govinfo.gov.*

Copies may also be obtained by sending a request (identified by amendment or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677.

Except for classified material, all documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the internet through the Federal Document Management System Portal referenced previously.

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

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

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations, 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(f), 106(g), 1155, 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); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Revise § 91.1603 to read as follows:

§ 91.1603 Special Federal Aviation Regulation No. 112—Prohibition Against Certain Flights in the Tripoli Flight Information Region (FIR) (HLLL).

(a) *Applicability.* This Special Federal Aviation Regulation (SFAR) applies to the following persons:

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

(2) All 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

(3) All operators of U.S.-registered civil aircraft, except where the operator of such aircraft is a foreign air carrier.

(b) *Flight prohibition.* Except as provided in paragraphs (c) and (d) of this section, no person described in paragraph (a) of this section may conduct flight operations in the Tripoli Flight Information Region (FIR) (HLLL).

(c) *Permitted operations.* This section does not prohibit persons described in paragraph (a) of this section from conducting flight operations in the Tripoli Flight Information Region (FIR) (HLLL) under the following circumstances:

(1) Overflights of the Tripoli FIR (HLLL) may be conducted at altitudes at or above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Libya.

(2) Flight operations in the Tripoli FIR (HLLL) at altitudes below FL300 are permitted if they are conducted under a contract, grant, or cooperative agreement with a department, agency, or instrumentality of the U.S. Government (or under a subcontract between the prime contractor of the department, agency, or instrumentality and the person described in paragraph (a) of this section) with the approval of the FAA, or under an exemption issued by the FAA. The FAA will consider requests for approval or exemption in a timely manner, with the order of preference being: First, for those operations in support of U.S. Government-sponsored activities; second, for those operations in support of government-sponsored activities of a foreign country with the support of a U.S. Government department, agency, or instrumentality; and third, for all other operations.

(d) *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 section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR part 119, 121, 125, or 135, each person who deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the responsible Flight Standards 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.

(e) *Expiration.* This Special Federal Aviation Regulation (SFAR) will remain in effect until March 20, 2021. The FAA may amend, rescind, or extend this SFAR, as necessary.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f) and (g), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), on March 12, 019.

Daniel K. Elwell,

Acting Administrator.

[FR Doc. 2019–04896 Filed 3–18–19; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Parts 35, 103, 127, and 138

[Public Notice 10692]

RIN 1400–AE75

Department of State 2019 Civil Monetary Penalties Inflationary Adjustment

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule is issued to adjust the civil monetary penalties (CMP) for regulatory provisions maintained and enforced by the Department of State. The revised CMP adjusts the amount of civil monetary penalties assessed by the Department of State based on the December 2018 guidance from the Office of Management and Budget. The new amounts will apply only to those penalties assessed on or after the effective date of this rule, regardless of the date on which the underlying facts or violations occurred.

DATES: This final rule is effective on March 19, 2019.

FOR FURTHER INFORMATION CONTACT: Alice Kottmyer, Attorney-Adviser, Office of Management, *kottmyeram@state.gov.* ATTN: Regulatory Change, CMP Adjustments, (202) 647–2318.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, required the head of each agency to adjust its CMPs for inflation no later than October 23, 1996 and required agencies to make adjustments at least once every four years thereafter. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Section 701 of Public Law 114–74 (the 2015 Act) further amended the 1990 Act by requiring agencies to adjust CMPs, if necessary, pursuant to a ''catch-up'' adjustment methodology prescribed by the 2015 Act, which mandated that the catch-up adjustment take effect no later than August 1, 2016. Additionally, the 2015 Act required agencies to make annual adjustments to their respective CMPs in accordance with guidance issued by the Office of Management and Budget (OMB).

Based on these statutes, the Department of State (the Department) published a final rule in June 2016 to implement the ''catch-up'' provisions; and annual updates to its CMPs in January 2017 and January 2018.

On December 14, 2018, OMB notified agencies that the annual cost-of-living adjustment multiplier for 2019, based on the Consumer Price Index, is 1.02522. Additional information may be found in OMB Memorandum M–19–04, at: *https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.* This final rule amends Department CMPs for fiscal year 2019.

Overview of the Areas Affected by This Rule

Within the Department of State (title 22, Code of Federal Regulations), this rule affects four areas:

(1) Part 35, which implements the Program Fraud Civil Remedies Act of 1986 (PFCRA), codified at 31 U.S.C. 3801–3812;

(2) Part 103, which implements the Chemical Weapons Convention Implementation Act of 1998 (CWC Act);

(3) Part 127, which implements the penalty provisions of sections 38(e), 39A(c), and 40(k) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(e), 2779a(c), 2780(k)); and

(4) Part 138, which implements Section 319 of Public Law 101–121, codified at 31 U.S.C. 1352, and prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal government in connection with a specific contract.

Specific Changes to 22 CFR Made by This Rule

I. Part 35

The PFRCA, enacted in 1986, authorizes agencies, with approval from the Department of Justice, to pursue