Will publish 6/13/03 in the Federal Register in Part 3 On display 3/10/03 at 3:45 p.m

[4910-13]

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 91**

**[Docket No. FAA-2003-15269 (old Docket No. 26380); SFAR No. 61-2]**

**Prohibition Against Certain Flights Between the United States and Iraq**

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

**ACTION:** Final rule; removal.

**SUMMARY:** This action removes Special Federal Aviation Regulation (SFAR) No. 61-2, which prohibits flight operations between the United States and Iraq, except under certain conditions. SFAR 61-2 is removed because the United Nations Security Council has lifted sanctions on Iraq and has encouraged all countries to participate in the reconstruction of that country, to include providing humanitarian flights. This final rule informs the public that the restrictions on flights between the United States and Iraq, which are contained in SFAR 61-2, are lifted. ~~However, the restrictions contained in SFAR 77 remain.~~

JMA 6/10/03

H * see page 3

**EFFECTIVE DATE:** June 10, 2003

**FOR FURTHER INFORMATION CONTACT:** David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone: (202) 267-3732 or 267-8166.

## SUPPLEMENTARY INFORMATION:

### Availability of Rulemaking Documents

You can get an electronic copy of this final rule using the Internet through the FAA's web page at http://www2.faa.gov/avr/arm/index.cfm

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

### Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to comply with small entity requests for information and advice about compliance statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http://www.faa.gov/avr/arm/sbrefa.htm* and send electronic inquiries to the following Internet address: *9-AWA-SBREFA@faa.dot.gov*.

### Background

On September 25, 1990, the United Nations Security Council adopted Resolution 670, which, among other things, mandated an embargo of air traffic with Iraq on the part of all member nations except to provide food and medical supplies in humanitarian circumstances or in support of the UN Military Observer Group. In support of this action, the United States issued Executive Orders 12722 and 12724, which

prohibited certain transactions, including air transportation, between the United States and Iraq. In support of Resolution 670 and Executive Orders 12722 and 12724, the FAA adopted SFAR 61 on November 9, 1990. SFAR 61 prohibited the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of the Iraq. SFAR 61 expired on November 9, 1991. SFAR 61-2 replaced SFAR 61, and has continued to support the ban on flights between the United States and Iraq throughout the recent hostilities.

On May 22, 2003, the United Nations Security Council by unanimous vote adopted Resolution 1483, which, among other things, lifted the sanctions imposed by Resolution 670, including the flight prohibitions described above. Because of the UN action, the FAA finds that the underlying legal basis for SFAR 61-2 has been removed. Accordingly, SFAR 61-2 should be terminated immediately.

*copy to second paragraph of Summary on page

This action does not remove the Iraq flight prohibition of SFAR 77, which affects certain operations by U.S. air carriers and commercial operators, by any person exercising the privileges of an airman certificate issued by the FAA except persons operating U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. The flight prohibition under SFAR 77, which was imposed for safety reasons, remains in effect.

JMA 6/10/03

**Immediate adoption**

On the basis of the above, I am ordering the removal of SFAR 61-2. Because this action lifts a prohibition on certain flight operations conducted by U.S. air carriers and commercial operators, and persons exercising the privileges under FAA issued

certificates with limited exception, I find that notice and public comment under 5 U.S.C. § 533(b) are unnecessary and contrary to the public interest. Further, I find that good cause exists under 5 U.S.C. § 533(d) for making this rule effective immediately upon issuance.

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

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

**The Amendment**

For the reasons set forth above, the Federal Aviation Administration amends part 91 of Title 14 of the Code of Federal Regulations, by removing SFAR 61-2 as follows:

**PART 91-GENERAL OPERATING AND FLIGHT RULES**

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

SFAR 61-2 [REMOVED]

2. Special Federal Aviation Regulation No. 61-2 – Prohibition Against Certain Flights Between the United States and Iraq is removed ~~[Removed]~~.

Issued in Washington, DC, on JUN 10 2003

Marion C. Blakey
Administrator

Certified to be a True Copy