[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA-2004-17763; Special Federal Aviation Regulation (SFAR) No. 104]

RIN: 2120-AI34

Prohibition Against Certain Flights By Syrian Air Carriers to the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action prohibits takeoffs from or landings in the territory of the United States by any air carrier owned or controlled by Syria when engaged in scheduled international air services, except in the event of an emergency. This prohibition does not affect overflights of the territory of the United States by such carriers. This action is necessary to implement Executive Order 13338, which mandates sanctions on certain operations to the United States by Syrian air carriers.

DATES: SFAR 104 is effective on [Insert date of publication in the Federal Register]. SFAR 104 will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591; telephone: (202) 267-3732; email *David.Catey@faa.gov*.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search);

(2) Visiting the Office of Rulemaking's web page at http://www.faa.gov/avr/arm/index.cfm; or

(3) Accessing the Government Printing Office's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or 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

The FAA is responsible for the safety of flight in the United States. Section 40101(d)(1) of Title 49, United States Code, requires the Administrator of the FAA to consider the regulation of air commerce in a manner that best promotes safety and fulfills the requirements of national security as being in the public interest. In addition, 49 U.S.C. 40105(b)(1)(A) requires the Administrator to exercise her authority consistently with the obligations of the United States Government under an international agreement.

On May 11, 2004, the President of the United States issued Executive Order 13338, Section 2 of which requires the Secretary of Transportation to prohibit takeoffs from or landings in the territory of the United States by any air carrier owned or controlled by Syria when engaged in scheduled international air services. That section also provides an exception for takeoffs and landings by such carriers in the event of an emergency. The Executive Order permits overflights of United States territory by such carriers, and charters conducted by these carriers for official Syrian Government business that are permitted by the Department of Transportation.

Executive Order 13338 cites the President's authority under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (SAA). In particular, the SAA authorizes the imposition of sanctions on Syria until it ceases certain conduct, including its support of terrorist groups, its efforts to develop weapons of mass destruction, and its occupation of Lebanon. In imposing these sanctions on Syria, including the flight prohibition described above, Executive Order 13338 specifically determines that Syria's conduct in these respects is continuing and that it constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States.

A copy of Executive Order 13338 has been placed in the docket for this rulemaking.

Prohibition Against Certain Flights By Syrian Air Carriers to the United States

On the basis of the above, and in support of the Executive Order of the President of the United States, I find that immediate action by the FAA is required to implement Executive Order 13338. Accordingly, I am ordering a prohibition on the takeoff from and landing in the territory of the United States by any air carrier owned or controlled by Syria when engaged in scheduled international air services. This prohibition does not affect overflights of U.S. territory by such carriers. An exception from this flight prohibition is made for takeoffs and landings in the territory of the United States by such carriers in the event of an emergency. For the reasons stated above, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon publication. I also find that this action is fully consistent with my obligations under section 49 U.S.C. 40105(b)(1)(A) to act consistently with the obligations of the United States under international agreements.

The rule contains no expiration date, and will be terminated as soon as the underlying legal requirements leading to its adoption are removed.

Regulatory Evaluation

The potential cost of this regulation is limited to the net revenue of scheduled international air services by air carriers owned or controlled by Syria. However, pursuant to Executive Order 13338, the Office of the Secretary of Transportation (OST) does not permit air carriers owned or controlled by Syria from engaging in foreign air transportation as defined in 49 U.S.C. 40102(a)(23). Accordingly, this action will impose no additional burden on those operators.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

International Trade Impact Assessment

Pursuant to Executive Order 13338, the Office of the Secretary of Transportation (OST) will not permit air carriers owned or controlled by Syria to engage in foreign air transportation as defined in 49 U.S.C. 40102(a)(23). This SFAR does not impose any restrictions on Syrian carriers engaged in foreign air transportation beyond those imposed by OST. Therefore, the SFAR will not create a competitive advantage or disadvantage for Syrian carriers in the sale of aviation products or services in the United States, nor for domestic firms in the sale of aviation products or services in foreign countries.

Federalism Determination

The amendment set forth herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 4168; October 30, 1987), it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this action is not a "significant regulatory action" under Executive Order 12866. This action is considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979). Because the Office of the Secretary of Transportation does not permit air carriers owned or controlled by Syria from engaging in foreign air transportation as defined in 49 U.S.C. 40102(a)(23), the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

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

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR Part 91 as follows:

PART 91 — GENERAL OPERATING AND FLIGHT RULES

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

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 35 FR 4247, 3 CFR, 1966-1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Add Special Federal Aviation Regulation (SFAR) No. 104 to Part 91 to read as follows:

Special Federal Aviation Regulation No. 104 — Prohibition Against Certain Flights by Syrian Air Carriers to the United States

1. *Applicability.* This Special Federal Aviation Regulation (SFAR) No. 104 applies to any air carrier owned or controlled by Syria that is engaged in scheduled international air services.

2. *Special flight restrictions.* Except as provided in paragraphs 3 and 4 of this SFAR No. 104, no air carrier described in paragraph 1 may take off from or land in the territory of the United States.

3. *Permitted operations.* This SFAR does not prohibit overflights of the territory of the United States by any air carrier described in paragraph 1.

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft of any air carrier described in paragraph 1 may deviate from this SFAR to the extent required by that emergency. Each person who deviates from this rule must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office a complete report of the operations or the aircraft involved in the deviation, including a description of the deviation and the reasons therefor.

5. *Duration.* This SFAR No. 104 will remain in effect until further notice.

Issued in Washington, DC, on May 28, 2004.

Marion C. Blakey
Marion C. Blakey
Administrator

Certified to be a True Copy