

Billing Code 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA-2014-0225; Amdt. No. 91-331A]

RIN 2120-AK56

Prohibition Against Certain Flights in the Simferopol (UKFV) and Dnipropetrovsk (UKDV) Flight Information Regions (FIRs)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Immediately adopted final rule.

SUMMARY: This action amends Special Federal Aviation Regulation (SFAR) No. 113, “Prohibition Against Certain Flights in the Simferopol (UKFV) Flight Information Region (FIR),” which prohibited certain flight operations in a portion of the Simferopol (UKFV) FIR by all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of a U.S. airman certificate, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when such operators are foreign air carriers. This action expands the area in which flight operations by persons subject to SFAR No. 113 are prohibited, to include all of the Simferopol (UKFV) FIR, as well as the entire Dnipropetrovsk (UKDV) FIR. The FAA finds this action to be necessary to prevent a potential hazard to persons and aircraft engaged in such flight operations.

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

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Will Gonzalez, Air Transportation Division, AFS-220, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone 202-267-8166; e-mail will.gonzalez@faa.gov.

For legal questions concerning this action, contact Robert Frenzel, Office of the Chief Counsel, AGC-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7638; email robert.frenzel@faa.gov.

SUPPLEMENTARY INFORMATION:

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.” In this instance, the FAA finds that notice and public comment to this immediately adopted final rule, as well as any delay in the effective date of this rule, are contrary to the public interest due to the immediate need to address the potential hazard to civil aviation that now exists in the Simferopol (UKFV) and Dnepropetrovsk (UKDV) FIRs, as described in the Background section of this Notice.

Authority for this Rulemaking

The FAA is responsible for the safety of flight in the United States (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’s authority to issue rules on aviation safety is found in title 49, U.S. Code. Subtitle I, section 106(f), describes the authority of the FAA Administrator. 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 his 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 that authority, because it prohibits the persons subject to paragraph (a) of SFAR No. 113 from conducting flight operations in the entirety of the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs due to the potential hazard to the safety of such persons' flight operations, as described in the "Background" section of this document.

I. Overview of Immediately Adopted Final Rule Amending SFAR No. 113

This action prohibits flight operations in the entirety of the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs by all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of a U.S. airman certificate, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when such operators are foreign air carriers. The FAA finds this action necessary to prevent a potential hazard to persons and aircraft engaged in such flight operations.

II. Background

On April 23, 2014, the FAA issued SFAR No. 113, § 91.1607, which prohibited flight operations in a portion of the Simferopol (UKFV) FIR by all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of a U.S. airman certificate, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when such operators are foreign air carriers. On March 28, 2014, the Russian Federation had issued a Notice-to-Airmen (NOTAM) purporting to establish unilaterally a new FIR, effective April 3, 2014, in a significant portion of the Simferopol (UKFV) FIR, which included sovereign Ukrainian airspace over the Crimean Peninsula and the associated Ukrainian territorial sea, as well as international airspace managed by Ukraine over the Black Sea and the Sea of Azov. Ukraine rejected the Russian Federation's purported establishment of a new FIR within the existing Simferopol (UKFV) FIR, established a prohibited area over the Crimean Peninsula for flight operations below flight level 290, and closed various air traffic services (ATS) route segments.

The Russian Federation responded by issuing a NOTAM that rejected and directly conflicted with Ukrainian NOTAMs concerning the establishment of the prohibited area and the route segment closures. On April 2, 2014, the International Civil Aviation Organization's (ICAO's) Regional Director for Europe and the North Atlantic Regions issued a state letter to countries and their civil aviation authorities highlighting the possible existence of serious risks to the safety of international civil flights and recommending that consideration be given to implementing measures to avoid the airspace and to circumnavigate the Simferopol (UKFV) FIR with alternative routings.

When SFAR No. 113, § 91.1607, was issued, the FAA viewed the possibility of civil aircraft receiving confusing and conflicting air traffic control instructions from both Ukrainian and Russian ATS providers when operating in the portion of the Simferopol (UKFV) FIR covered by SFAR No. 113, § 91.1607, as an unsafe condition that presented a potential hazard to civil flight operations in the disputed airspace. Because political and military tensions between Ukraine and the Russian Federation remained high, the FAA was also concerned that compliance with air traffic control instructions issued by the authorities of one country could result in a civil aircraft being misidentified as a threat and intercepted or otherwise engaged by air defense forces of the other country. The FAA continues to have these concerns.

The FAA is now expanding SFAR No. 113, § 91.1607, due to safety and national security concerns regarding flight operations in the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs. The ongoing conflict in the region poses a significant threat to civil aviation operations in these FIRs. In addition to a series of attacks on fixed-wing and rotary-wing military aircraft flying at lower altitudes, a Ukrainian An-26 flying at 21,000 feet southeast of Luhansk was shot down on July 14, 2014, and a Malaysia Airlines Boeing 777 was shot down on July 17, 2014, while flying over Ukraine at 33,000 feet just west of the Russian border. Approximately 290 passengers and crew perished. The use of weapons capable of targeting and shooting down aircraft flying on civil air routes at cruising altitudes poses a significantly dangerous threat to civil aircraft flying in the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs.

In response to this situation, the FAA issued a NOTAM on July 18, 2014 (UTC), to prohibit operations within the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs

by all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of a U.S. airman certificate, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when such operators are foreign air carriers. Given the uncertainty about when the conflict in the region will end, this amendment follows up on that action.

The FAA will continue to actively evaluate the area and the airports in the region to determine to what extent U.S. civil operators may be able to safely operate in the region. Amendments to the SFAR may be appropriate if the risk to aviation safety and security changes. The FAA may amend or rescind the SFAR as necessary prior to its expiration date. This amendment also makes a few technical corrections to SFAR No. 113, § 91.1607.

Because the circumstances described herein warrant immediate action by the FAA, I find that notice and public comment under 5 U.S.C. § 553(b)(3)(B) are impracticable and contrary to the public interest. However, we will accept any comments regarding the impact of this action for consideration in any future rulemaking action to amend or rescind this SFAR. Further, I find that good cause exists under 5 U.S.C. § 553(d) for making this rule effective immediately upon issuance. I also find that this action is fully consistent with the obligations under 49 U.S.C. § 40105 to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

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

On April 23, 2014, the FAA put an approval process in place as part of SFAR No. 113, § 91.1607. In this rule, the approval process has been expanded to address flight operations by persons covered by SFAR No. 113, § 91.1607, in the entirety of the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs. If a department, agency, or instrumentality of the U.S. Government determines that it has a critical need to engage any person covered under SFAR No. 113, § 91.1607, including a U.S. air carrier or a U.S. commercial operator, to conduct a charter to transport civilian or military passengers or cargo in the Simferopol (UKFV) FIR and/or the Dnipropetrovsk (UKDV) FIR, that department, agency, or instrumentality may request the FAA to approve persons covered under SFAR No. 113, § 91.1607, to conduct such operations. An approval request must be made to the FAA in a letter signed by an appropriate senior official of the requesting department, agency, or instrumentality of the U.S. Government. The letter must be sent to the Associate Administrator for Aviation Safety (AVS-1), 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 covered under SFAR No. 113, § 91.1607, 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 within the Simferopol (UKFV) FIR and/or the Dnipropetrovsk (UKDV) FIR covered by this SFAR where the proposed operation(s) will be conducted; 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 its proposed operations (e.g., pre-mission planning and briefing, in-flight, and post-flight).

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 with whom its prime contractor has a subcontract(s)) for specific flight operations in the Simferopol (UKFV) FIR and/or the Dnipropetrovsk (UKDV) FIR. Additional such operators may be identified to the FAA at any time after the FAA approval is issued. Updated lists should be sent to the email address to be obtained from the Air Transportation Division, (202) 267-8166.

If an approval request includes classified information, requestors may contact Aviation Safety Inspector Will Gonzalez 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. 113, § 91.1607, does not relieve persons subject to this SFAR of their responsibility to comply with all applicable FAA rules and regulations. Operators of civil aircraft will have to comply with the conditions of their certificate and Operations Specifications (OpSpecs). Operators will also have to comply with all rules and regulations of other U.S. Government departments or agencies that may apply to the proposed operation, including, but not limited to, the Transportation Security Regulations issued by the Transportation Security Administration, Department of Homeland Security.

Approval Conditions

On April 23, 2014, the FAA put approval conditions in place as part of SFAR No. 113, § 91.1607. The approval conditions will now apply to flight operations conducted by persons covered by SFAR No. 113, § 91.1607, in the entirety of the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs. If the FAA approves the request, the FAA's Aviation Safety Organization (AVS) 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) The approval will specify that the operation is not eligible for coverage under a premium war risk insurance policy issued by the FAA under chapter 443 of title 49, U.S. Code.¹

(3) If the proposed operation would have been covered by a premium war risk insurance policy issued by the FAA under chapter 443 of title 49, U.S. Code, but for SFAR No. 113, § 91.1607, the FAA will issue an endorsement to that premium policy that specifically excludes coverage for any operations into, out of, within, or through the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs, including operations under a flight plan that contemplates landing in or taking off from Ukrainian territory within those two FIRs. The endorsement to the premium policy will take effect before the approval's effective date. The exclusion specified in the endorsement will remain in effect as long as this SFAR remains in effect, notwithstanding the issuance of any approval under, or exemption from, this SFAR (the chapter 443 premium policy refers to such approval as a “waiver” and such exemption as an “exclusion”).

(4) Before any approval takes effect, the operator must submit to the FAA a written release of the U.S. Government (including but not limited to the United States of America, as Insurer) from all damages, claims, and liabilities, including without limitation legal fees and expenses, and the operator’s agreement to indemnify the U.S. Government (including but not limited to the United States of America, as Insurer) 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

¹ If and when, in connection with an operator’s contract with a department, agency, or instrumentality of the U.S. Government, an operation is covered by a non-premium war risk insurance policy issued by FAA under 49 U.S.C. 44305, coverage under that operator’s FAA premium war risk insurance policy is suspended as a condition contained in that premium policy.

approved operations in the Simferopol (UKFV) FIR and/or Dnipropetrovsk (UKDV) FIR. 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.

(5) Other conditions that the FAA may specify, including those that may be imposed in OpSpecs.

If the proposed operation or operations are approved, the FAA will issue OpSpecs to the certificate holder authorizing these operations and will notify a department, agency, or instrumentality that requests FAA approval of civil flight operations to be conducted by one or more persons described in paragraph (a) of SFAR No. 113, § 91.1607, of any additional conditions beyond those contained in the approval letter, if the operations are approved. The requesting department, agency, or instrumentality must have a contract, grant, or cooperative agreement (or its prime contractor must have a subcontract) with the person(s) described in paragraph (a) of SFAR No. 113, § 91.1607, on whose behalf the department, agency, or instrumentality requests FAA approval.

Request for Exemptions

The FAA included a section about requests for exemption when it issued SFAR No. 113, § 91.1607, on April 23, 2014. The section concerning requests for exemption has been expanded to address flight operations by persons covered by SFAR No. 113, § 91.1607, in both the Simferopol (UKFV) and the Dnipropetrovsk (UKDV) FIRs. Any operations not conducted under the approval process set forth above must be conducted under an exemption from SFAR No. 113, § 91.1607. A request by any person covered under SFAR No. 113, § 91.1607, for an exemption must comply with 14 CFR part 11,

and will require exceptional circumstances beyond those contemplated by the approval process set forth above. 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 within the Simferopol (UKFV) FIR and/or the Dnipropetrovsk (UKDV) FIR where the proposed operation(s) will be conducted; and
- 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 (*e.g.*, the pre-mission planning and briefing, in-flight, and post-flight phases).

Additionally, FAA's endorsement of any premium war risk insurance policy issued under chapter 443 of title 49, U.S. Code, and the release and agreement to indemnify, all as referred to above, will be required as a condition of any exemption that may be issued under SFAR No. 113, § 91.1607.

The FAA recognizes that operations that may be affected by SFAR No. 113, § 91.1607, including this amendment, 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 process exemption requests for such operations on an expedited basis and prior to any private exemption requests.

III. Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 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 (Public Law 96-354), as codified in 5 U.S.C. § 603, requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Public Law 96-39), as codified in 19 U.S.C. § 2532, 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 (Public Law 104-4), as codified in 2 U.S.C. § 1532, 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.

Department of Transportation (DOT) Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this

order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows:

This rule prohibits flights in both the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs due to the significant hazards to civil aviation described in the Background section of this preamble. The alternative flight routes result in some additional fuel and operations costs to the operators, as well as some costs attributed to passenger time. However, no U.S. operators are now operating in the portion of the Simferopol (UKFV) FIR for which flight operations have already been prohibited by SFAR No. 113. Moreover, almost all U.S. operators had already voluntarily ceased their operations in these two FIRs prior to the issuance of the FAA NOTAM on July 18, 2014 (UTC), because of the significant hazards involved. Accordingly, the incremental costs of this proposed amendment to SFAR No. 113 are minimal. By prohibiting unsafe flights, the benefits of this rule will exceed the minimal flight deviation costs.

In conducting these analyses, FAA has determined this final rule is a "significant regulatory action," as defined in section 3(f) of Executive Order 12866, because it raises novel policy issues contemplated under that Executive Order. The rule is also "significant" as defined in DOT's Regulatory Policies and Procedures. The final rule, if adopted, will not have a significant economic impact on a substantial number of small entities, will not create unnecessary obstacles to international trade and will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

A. Regulatory Flexibility Analysis

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

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

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

U.S. certificate holders affected by this final rule are predominately large passenger and all-cargo carriers. There are some small entity operators flying under U.S. government contract and some operators providing flights that support oil operations that the FAA anticipates will also be affected. Many of these operations are conducted by small entities, but due to the immediacy of the potential harm to U.S. certificate holders,

their passengers, crew, and cargo, there is not a sufficient amount of time to ascertain exact numbers. There are likely to be enough such operators to be considered a substantial number of small entities. The incremental costs of this amendment are minimal because operators have largely stopped overflying this area voluntarily.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

B. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Public Law 96-39), as amended by the Uruguay Round Agreements Act (Public Law 103-465), 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 these Acts, 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 a potential hazard outside the U.S. Therefore, the rule is in compliance with the Trade Agreements Act.

C. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 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 \$151.0 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.

D. 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 that there is no new requirement for information collection associated with this immediately adopted final rule.

E. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation (the "Chicago Convention"), it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

F. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act ("NEPA") in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the

categorical exclusion identified in paragraph 312(f) and involves no extraordinary circumstances.

The FAA has reviewed the implementation of the proposed SFAR and determined it is categorically excluded from further environmental review according to FAA Order 1050.1E, “Environmental Impacts: Policies and Procedures,” paragraph 312(f). The FAA has examined possible extraordinary circumstances and determined that no such circumstances exist. After careful and thorough consideration of the proposed action, the FAA finds that the Federal action does not require preparation of an EA or EIS in accordance with the requirements of NEPA, Council on Environmental Quality (CEQ) regulations, and FAA Order 1050.1E.

IV. Executive Order Determinations

A. Executive Order 13132, “Federalism”

The FAA has analyzed this immediately adopted final rule under the principles and criteria of Executive Order 13132, “Federalism.” The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

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

The FAA analyzed this immediately adopted final 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 is not a

“significant energy action” under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, 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.

V. How To Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet —

1. Search the Federal Document Management System (FDMS) Portal (<http://www.regulations.gov>);
2. Visit the FAA’s Regulations and Policies Web page at http://www.faa.gov/regulations_policies/ or
3. Access the Government Printing Office’s Web page at: <http://www.gpo.gov/fdsys/>.

Copies may also be obtained by sending a request (identified by notice, 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) 267-9680.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) 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 person listed under the “For Further Information Contact” section 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, Ukraine.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of Title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 is revised 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, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

2. Revise § 91.1607 to read as follows:

§ 91.1607 Special Federal Aviation Regulation No. 113—Prohibition Against Certain Flights in the Simferopol (UKFV) and the Dnipropetrovsk (UKDV) Flight Information Regions (FIRs).

(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 such persons 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 Simferopol (UKFV) FIR or the Dnipropetrovsk (UKDV) FIR.

(c) Permitted operations. This section does not prohibit persons described in paragraph (a) of this section from conducting flight operations in either or both of the Simferopol (UKFV) and the Dnipropetrovsk (UKDV) FIRs, provided that such flight operations 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 subject to paragraph (a)), with the approval of the FAA, or under an exemption issued by the FAA. The FAA will process 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 parts 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 nearest FAA Flight Standards District Office (FSDO) 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 SFAR will remain in effect until October 27, 2015. The FAA may amend, rescind, or extend this SFAR as necessary.

Issued under authority provided by 49 U.S.C. 106(f), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), in Washington, DC, on December 19, 2014.

Michael P. Huerta,
Administrator

[FR Doc. 2014-30365 Filed 12/24/2014 at 8:45 am; Publication Date: 12/29/2014]