

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 91**

[Docket No. FAA-2003-14766; SFAR 77]

Prohibition Against Certain Flights Within the Territory and Airspace of Iraq; Approval Process for Requests for Authorization to Operate in Iraqi Airspace**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; interpretation.

SUMMARY: This document explains how the FAA will process requests for authorization to operate in Iraqi airspace under paragraph 3 of Special Federal Aviation Regulation (SFAR) No. 77. Consistent with paragraph three of SFAR No. 77, this document further specifies the available FAA approval process for any covered person to engage in permitted operations within the territory of Iraq.

DATES: April 20, 2004.**FOR FURTHER INFORMATION CONTACT:**

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SUPPLEMENTARY INFORMATION: This document explains how the FAA will process requests for authorization to operate in Iraqi airspace under paragraph 3 of Special Federal Aviation Regulation (SFAR) No. 77. Special Federal Aviation Regulation No. 77 was first issued on October 16, 1996, and was amended on April 11, 2003, and November 19, 2003. Consistent with the amendment set forth in paragraph three of SFAR No. 77, this document is to further specify the available Federal Aviation Administration (FAA) approval process for any covered person to engage in permitted operations within the territory of Iraq.

As amended, SFAR No. 77 provides:

Special Federal Aviation Regulation No. 77—Prohibition Against Certain Flights Within the Territory and Airspace of Iraq

1. *Applicability.* This rule applies to the following persons:

(a) All U.S. air carriers or commercial operators;

(b) 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; or

(c) All operators of aircraft registered in the United States except where the operator of such aircraft is a foreign air carrier.

2. *Flight prohibition.* No person may conduct flight operations over or within the

territory of Iraq except as provided in paragraphs 3 and 4 of this SFAR or except as follows:

(a) Overflights of Iraq may be conducted above flight level (FL) 200 subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Iraq.

(b) Flights departing from countries adjacent to Iraq whose climb performance will not permit operation above FL 200 prior to Iraqi airspace may operate at altitudes below FL 200 within Iraq to the extent necessary to permit a climb above FL 200, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Iraq.

(c) [Reserved]

3. *Permitted operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations within the territory and airspace of Iraq when such operations are authorized either by another agency of the United States Government with the approval of the FAA or by an exemption issued by the Administrator.

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 may deviate from this SFAR to the extent required by that emergency. Except for U.S. air carriers or commercial operators that are subject to the requirements of 14 CFR parts 119, 121, or 135, each person who deviates from this rule shall, within ten (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 of the aircraft involved in the deviation including a description of the deviation and the reasons therefore.

5. *Expiration.* This Special Federal Aviation Regulation will remain in effect until further notice.

SFAR No. 77 was originally issued in response to concerns for the safety and security of U.S. civil flights within the territory and airspace of Iraq.¹ At that time, Iraq's dictator had threatened to attack any air target of the United States, and the threat appeared to include civilian as well as military aircraft.

In April 2003, the FAA anticipated that when hostilities ended in Iraq, humanitarian efforts would be needed to assist the people of Iraq. To facilitate those efforts, the FAA amended paragraph 3 of the SFAR to clarify the FAA approval process and to clarify a technical oversight that operations could not be authorized by another agency without the approval of the FAA.

More recently, in November 2003, the United States Government determined that certain limited overflights of Iraq might be conducted safely, but that significant safety concerns otherwise continued to exist.

¹ In SFAR No. 61-2, the FAA had previously restricted certain flight operations to and from Iraq.

Accordingly, the FAA is now clarifying the process by which the persons covered in paragraph 1 of SFAR No. 77 may seek to obtain FAA approval or exemption under paragraph 3 of SFAR No. 77. These processes are described as follows:

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

If a Department or agency of the U.S. Government determines that it has a critical need to engage any person covered under paragraph 1 of this SFAR, including a U.S. air carrier or a commercial operator in a charter for transportation of civilian or military passengers or cargo where the total capacity of the aircraft is used solely for that charter while the aircraft operates within Iraq, the U.S. Government agency may request FAA approval of the operation on behalf of the person covered under paragraph 1 of the SFAR. That request for approval shall be made in writing, in the form of a letter under the signature of a senior official of that Department or agency, and sent to the FAA Associate Administrator for Regulation and Certification (AVR). That request for approval must include:

1. A written contract between the other U.S. Government agency and persons covered under paragraph 1 of this SFAR for specific flight operations, which includes terms and conditions detailing how the operations are to be conducted;

2. A plan approved by the U.S. Government agency describing how, in light of the need for and risk of the proposed operation, the threats to the operation will be mitigated, including the threats associated with man-portable air defense systems (MANPADS). FAA review of the plan shall not constitute FAA acceptance or approval of the plan; and

3. Any other information requested by the FAA.

The FAA will review the request for approval submitted by the U.S. Government agency to determine whether that agency has addressed the threats to the proposed operations, including the threats associated with MANPADS. If the FAA determines that the U.S. Government agency has addressed those issues, an approval may be issued as described under the "Approval Conditions" discussion that follows.² FAA approval of the operation

² The process set forth above outlines the conditions under which the FAA anticipates that approvals of flight operations into Iraq may be granted at this time. Any requests for exemption under 14 CFR part 11 will require exceptional

under paragraph 3 of SFAR 77 does not relieve the operator of the responsibility of ensuring compliance with all rules and regulations of other U.S.

Government agencies that may apply to the operation, including, but not limited to, the Transportation Security Regulations issued by the Transportation Security Administration, Department of Homeland Security.

Approval Conditions

If the FAA approves the requested operation, then AVR will issue an approval directly to the carrier through the use of Operations Specifications (large air carriers) or a letter of authorization (general aviation operations). AVR will send a letter to the authorizing agency that stipulates the specific conditions under which the FAA approves the air carrier or other covered persons for the requested operations in Iraq. Specifically:

1. Any 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. Any approval shall specify that the operation is not eligible for coverage through a premium insurance policy issued by the FAA under section 44302 of chapter 443 of title 49 of the United States Code. The operator shall not request such coverage, and the FAA shall not issue a policy providing insurance; and

3. If the operator already is covered by a premium insurance policy issued by the FAA,³ the applicant shall be required to request the FAA to issue an endorsement to its premium insurance policy that specifically excludes coverage for any operations into, from, or within the territory or airspace of Iraq pursuant to a flight plan that contemplates landing or taking off from Iraqi territory, and the operator shall expressly waive any claims against the U.S. Government in the event of injury, death or loss resulting from any such operation as a condition for an approval or an exemption issued in accordance with Paragraph 3 of SFAR 77. If approved by the FAA, such an endorsement to the premium insurance policy must be issued and effective prior to the effective date of the approval. Additionally, the operator

circumstances beyond those presently contemplated by this approval process.

³ Coverage under FAA premium insurance policies is suspended, as a condition of the premium policy, if an operation is covered by non-premium insurance through a contract with an agency of the U.S. Government under section 44305 of chapter 443 of title 49 of the U.S. Code.

must notify the FAA in writing of its agreement to release the U.S. Government from all claims and liabilities, as well as its agreement to indemnify the U.S. Government with respect to any third party claims and liabilities relating to any and all events arising from or related to any such operation. If the operation includes the carriage of passengers, the operator shall obtain signed statements from each passenger that—(1) contain a statement that the passenger knowingly accepts the risk of the operation and consents to that risk, and (2) releases the U.S. Government from all claims and liabilities relating to any and all events arising from or related to any such operation.

Issued in Washington, DC, on April 19, 2004.

Marion C. Blakey,
Administrator.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–8409; 34–49580; 35–27836; 39–2419; IC–26420]

RIN 3235–AG96

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the Commission) is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) Filer Manual to reflect updates to the EDGAR system. The revisions are being made primarily to support the mandatory electronic filing of Form ID, the application for access codes to file on EDGAR, via a new EDGAR Filer Management Web site and to support the initial period of our proposal to expand the information that we require certain open-end management investment companies and insurance company separate accounts to submit to us electronically through EDGAR regarding their series and classes (or contracts, in the case of separate accounts).

The revisions to the Filer Manual reflect changes within Volumes I, II and III, entitled “EDGAR Release 8.7 EDGARLink Filer Manual,” “EDGAR Release 8.7 N–SAR Supplement Filer Manual,” and “EDGAR Release 8.7

OnlineForms Filer Manual” respectively. The updated manual will be incorporated by reference into the Code of Federal Regulations.

EFFECTIVE DATE: April 26, 2004. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of April 26, 2004.

FOR FURTHER INFORMATION CONTACT: In the Office of Information Technology, Rick Heroux, at (202) 942–8800; for questions concerning the Division of Investment Management filings, in the Division of Investment Management, Ruth Armfield Sanders, Senior Special Counsel, at (202) 942–0978; and for questions concerning the Division of Corporation Finance filings, in the Division of Corporation Finance, Herbert Scholl, Office Chief, EDGAR and Information Analysis, at (202) 942–2940; in the Office of Filings and Information Services, Margaret A. Favor, (202) 942–8900.

SUPPLEMENTARY INFORMATION: Today we are adopting an updated EDGAR Filer Manual (Filer Manual). The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.¹ It also describes the requirements for filing using modernized EDGARLink.²

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.³ Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.⁴

¹ We originally adopted the Filer Manual on July 1, 1993, with an effective date of July 26, 1993. Release No. 33–6986 (Apr. 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on July 31, 2003. See Release Nos. 33–8255 (July 22, 2003) [68 FR 44876] and 33–8255A (Sept. 10, 2003) [68 FR 53289].

² This is the filer assistance software we provide filers filing on the EDGAR system.

³ See Rule 301 of Regulation S–T (17 CFR 232.301).

⁴ See Release Nos. 33–6977 (Feb. 23, 1993) [58 FR 14628], IC–19284 (Feb. 23, 1993) [58 FR 14848], 35–25746 (Feb. 23, 1993) [58 FR 14999], and 33–6980 (Feb. 23, 1993) [58 FR 15009] in which we comprehensively discuss the rules we adopted to govern mandated electronic filing. See also Release No. 33–7122 (Dec. 19, 1994) [59 FR 67752], in which we made the EDGAR rules final and applicable to all domestic registrants; Release No. 33–7427 (July 1, 1997) [62 FR 36450], in which we adopted minor amendments to the EDGAR rules; Release No. 33–7472 (Oct. 24, 1997) [62 FR 58647], in which we announced that, as of January 1, 1998,