

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 29279; SFAR No. 86]

RIN 2120-AG79

**Airspace and Flight Operations Requirements for the Kodak
Albuquerque International Balloon Fiesta; Albuquerque, NM**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a temporary flight restriction (TFR) area for the periods of October 2 through October 10, 1999, and October 7 through October 15, 2000, for the 1999 and 2000 Kodak Albuquerque International Balloon Fiestas (KAIBF). This TFR is necessary to manage aircraft operating in the vicinity of the KAIBF, and to prevent unsafe congestion of aircraft that are sightseeing over and around the KAIBF.

DATES: Effective date for 1999: October 2 through October 10, 1999; effective date for 2000: October 7 through October 15, 2000.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration,

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SUPPLEMENTARY INFORMATION:

Availability of Final Rules

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321-3339), the Government Printing Office's (GPO) electronic bulletin board service (telephone: (202) 512-1661), or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: (800) 322-2722 or (202) 267-5948).

Internet users may reach the FAA's web page at <http://www.faa.gov/avr/arm/nprm/nprm.htm> or the GPO's web page at <http://www.access.gpo.gov/nara> for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Communications must identify the SFAR number or docket number of this final rule.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the

above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If your organization is a small entity and you have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analysis Staff, Office of Rulemaking, ARM-27, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, (888) 551-1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at <http://www.faa.gov> and may send electronic inquiries to the following Internet address: 9-AWA-SBREFA@faa.gov.

Background

The KAIBF will be held on October 2 through October 10, 1999, and the following year on October 7 through October 15, 2000, at a site 9 miles north of Albuquerque International Sunport, in Albuquerque, NM.

This Special Federal Aviation Regulation (SFAR) establishes a TFR area to provide for the safety of persons and property in the air and on the ground during the KAIBF. The TFR area will restrict aircraft operations in a specified location; however, access to this area may be allowed with the appropriate air traffic control (ATC) authorization from the Albuquerque International Sunport Airport Traffic Control Tower (ATCT). ATC will retain the ability to manage aircraft through the TFR area in accordance with established ATC procedures.

Specifically, the TFR area will be 9 miles north of the Albuquerque International Sunport ATCT and just west of Interstate Highway 25 (I-25). The TFR area will be centered on the Albuquerque Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) 038° radial 14 distance measuring equipment (DME) fix. The area will encompass a 4 nautical mile (NM) radius, extending from the surface up to but not including 8,000 feet mean sea level (MSL). The TFR area will be in effect between the hours of 0530 Mountain Daylight Time (MDT) and

1200 MDT, and from 1600 MDT until 2200 MDT on October 2 through October 10, 1999, and October 7 through October 15, 2000. Unauthorized aircraft will be required to remain clear of this area during these times.

The location, dimensions, and effective times of the TFR area will be published and disseminated via the Notice to Airmen (NOTAM) system.

Exceptions

This SFAR contains provisions to provide for flexible, efficient management and control of air traffic. ATC has the authority to give priority to, or exclude from the requirements of the SFAR, certain flight operations dealing with or containing personnel or equipment for essential military, medical emergency, rescue, or law enforcement purposes, and transportation of the President, or heads of state.

Notice to Airmen Information

Time-critical aeronautical information that is of a temporary nature, or is not sufficiently known in advance to permit publication on aeronautical charts or in other operational publications, receives immediate dissemination via the NOTAM system. All domestic operators planning flight to the KAIBF will need to pay particular attention to NOTAM D and Flight Data Center (FDC) NOTAM information.

NOTAM D contains information on airports, runways, navigational aids, radar services, and other information essential to flight. An FDC NOTAM contains information that is regulatory in nature, such as amendments to aeronautical charts and restrictions to flight. FDC NOTAM and NOTAM D information will also be provided to international operators in the form of International NOTAMs. NOTAMs are distributed through the National Communications Center in Kansas City, MO, for transmission to all air traffic facilities having telecommunications access.

Pilots and operators will need to consult the monthly NOTAM Domestic/International publication. This publication contains NOTAM FDC and D NOTAMs. Special information, including graphics, will be published in the biweekly publication in advance of the KAIBF. For more detailed information concerning the NOTAM system, refer to the Aeronautical Information Manual "Preflight" section.

Other U.S. Laws and Regulations

Aircraft operators should understand that the SFAR is in addition to other laws and regulations of the U.S. The SFAR will not waive or supersede any U.S. statute or obligation. When operating within the jurisdictional limits of the U.S., operators of foreign aircraft must

conform to all applicable requirements of U.S. Federal, State, and local governments. In particular, aircraft operators planning flights into the U.S. must be aware of and conform to the rules and regulations established by the:

1. U.S. Department of Transportation regarding flights entering the U.S.;
2. U.S. Customs Service, Immigration and other authorities regarding customs, immigrations, health, firearms, and imports/exports;
3. U.S. FAA regarding flight within or into U.S. airspace. This includes compliance with Parts 91, 121 and 135 of Title 14 of the Code of Federal Regulations regarding operations into or within the U.S. through air defense identification zones, and compliance with general flight rules; and,
4. Airport management authorities regarding use of airports and airport facilities.

Discussion of Comments

A notice of proposed rulemaking (NPRM) was published in the Federal Register on May 18, 1999 (64 FR 27160) and a correction was published on May 28, 1999 (64 FR 28945). No comments were received regarding this proposal. Except

for minor editorial changes, this amendment is adopted as proposed in the NPRM.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has determined that there are no requirements for information collection associated with this final rule.

Compatibility With ICAO Standards

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs 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 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management

and Budget (OMB) directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is not "a significant regulatory action" under section 3(f) of Executive Order 12866 and, therefore, is not subject to review by OMB. The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034, February 26, 1979). This rule will not have a significant impact on a substantial number of small entities and will not constitute a barrier to international trade.

This regulatory evaluation examined the costs and benefits of the SFAR applicable for the periods October 2 through October 10, 1999, and October 7 through October 15, 2000. This SFAR establishes a TFR area for the 1999 and 2000 KAIBFs to be held in Albuquerque, NM. Since the impacts of the change are relatively minor, this economic summary constitutes the analysis, and no regulatory evaluation will be placed in the docket.

The major economic impact, in this case, will be the inconvenience of circumnavigation to operators who may want to operate in the area of the TFR. An aircraft operator could avoid the restricted airspace by flying over it or by circumnavigating the restricted airspace. Because the

possibility of such occurrences is for a limited time and the restricted areas are limited in size, any circumnavigation costs will be negligible.

The benefits of the TFR airspace will primarily be a lowered risk of midair collisions between aircraft and balloons due to increased positive control of TFR airspace. While benefits cannot be quantified, the FAA believes the benefits are commensurate with the small costs attributed to the temporary inconvenience of the flight restrictions for operators near the TFR area.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance, that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of businesses, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. 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 proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final 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 an RFA is not required. The certification must include a statement providing the factual basis for this determination and the reasoning should be clear.

The FAA conducted the required review of this final rule and determined that it will not have a significant economic impact on a substantial number of small entities. As previously stated, the major economic impact, in this case, will be the inconvenience of circumnavigation to operators who may want to operate in the area of the TFR. Because the possibility of such occurrences is for a limited time and the restricted areas are limited in size, any circumnavigation costs will be negligible.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this rule will

not have a significant economic impact on a substantial number of small entities.

International Trade Impact Statement

The provisions of this rule will have little or no impact on trade for U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

Federalism Implications

The regulations herein will not have a substantial direct effect 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, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified as 2 U.S.C. 1501-1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or

more (adjusted annually for inflation) in any 1 year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires a Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of \$100 million (adjusted annually for inflation) in any 1 year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds \$100 million in any 1 year.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, this rulemaking action qualifies for a categorical exclusion.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airports, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of Title 14, Code of Federal Regulations (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. 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).

2. Amend Part 91 by adding Special Federal Aviation Regulation No. 86 to read as follows:

SFAR NO. 86-AIRSPACE AND FLIGHT OPERATIONS REQUIREMENTS FOR THE 1999 and 2000 KODAK ALBUQUERQUE INTERNATIONAL BALLOON FIESTAS, ALBUQUERQUE, NM

1. **General.** (a) Each person shall be familiar with all NOTAMs issued pursuant to this SFAR and all other available information concerning that operation before conducting any operation into or out of an airport or area specified in this SFAR or in NOTAMs pursuant to this SFAR. In addition, each person operating an international flight that will enter the U.S. shall be familiar with any international NOTAMs issued pursuant to this SFAR. NOTAMs are available for inspection at operating FAA air traffic facilities and regional air traffic division offices.

(b) Notwithstanding any provision of the Title 14, Code of Federal Regulations, no person may operate an aircraft contrary to any restriction procedure specified in this SFAR or by the Administrator, or through a NOTAM issued pursuant to this SFAR.

(c) As conditions warrant, the Administrator is authorized to-

(1) Restrict, prohibit, or permit IFR/VFR operations in the temporary flight restricted area

designated in this SFAR or in a NOTAM issued pursuant to this SFAR;

(2) Give priority to or exclude the following flights from provisions of this SFAR and NOTAMs issued pursuant to this SFAR:

- (i) Essential military.
- (ii) Medical and rescue.
- (iii) Presidential and Vice Presidential.
- (iv) Flights carrying visiting heads of state.
- (v) Law enforcement and security.
- (vi) Flights authorized by the Director, Air Traffic Service.

(d) For security purposes, the Administrator may issue NOTAMs during the effective period of this SFAR to cancel or modify provisions of this SFAR and NOTAMs issued pursuant to this SFAR if such action is consistent with the safe and efficient use of airspace and the safety and security of persons and property on the ground as affected by air traffic.

2. Temporary Flight Restriction. At the following location, flight is restricted during the indicated dates and times: That airspace within a 4 NM radius centered on the Albuquerque VORTAC 038° radial 14 DME fix from the

surface up to but not including 8,000 feet MSL unless otherwise authorized by Albuquerque ATCT.

3. Dates and Times of Designation. (a) October 2 through October 10, 1999, and October 7 through October 15, 2000, from 0530 MDT until 1200 MDT.

(b) October 2 through October 10, 1999, and October 7 through October 15, 2000, from 1600 MDT until 2200 MDT.

4. Expiration. This Special Federal Aviation Regulation expires on October 16, 2000.

Issued in Washington, DC, on August 11, 1999.

/s/ Jane F. Garvey

Administrator