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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2011–0246; Amdt. No. 91–321B]

RIN 2120–AK70

Prohibition Against Certain Flights Within the Tripoli (HLLL) Flight Information Region (FIR); Extension of Expiration Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule and extension of expiration date.

SUMMARY: This action extends the prohibition of flight operations within the Tripoli (HLLL) Flight Information Region (FIR) by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, 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 operators of such aircraft that are foreign air carriers. The extension of the expiration date is necessary to address a potential hazard to persons and aircraft engaged in such flight operations. Additionally, the FAA is amending the prohibition to make clear that operations by sub-contractors under a U.S. Government department, agency, or instrumentality's contract, grant, or cooperative agreement may be included in an approval request and to remove an obsolete reference to paragraph 8 of United Nations Security Council Resolution (UNSCR) 1973. The FAA is also revising the approval conditions that will apply to operations authorized by other U.S. Government departments, agencies, and instrumentalities that are approved by the FAA, and the information about requests for exemption, to reflect the termination of statutory authorization for the FAA premium war risk insurance program.

DATES: The final rule is effective March 20, 2015. This action extends the period during which Special Federal Aviation Regulation (SFAR) No. 112, scheduled to expire on March 20, 2015, will remain in effect. The expiration date is extended until March 20, 2017.

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; email *will.gonzalez@faa.gov.*

For legal questions concerning this action, contact Mary Mason, Office of the Chief Counsel, AGC–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8018; email *mary.mason@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 continued potential hazard to civil aviation that exists in the Tripoli (HLL) FIR, as described in the Background section of this rule.

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 extends the prohibition against the persons subject to paragraph (a) of SFAR No. 112, 14 CFR 91.1603, conducting flight operations in the Tripoli (HLLL) FIR due to the continued potential hazard to the safety of such persons' flight operations, as described in the Background section of this document.

I. Executive Summary

This action extends the prohibition of flight operations in the Tripoli (HLLL) 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. The FAA finds this action necessary to address potential hazards to persons and aircraft engaged in such flight operations. The prohibition, which is scheduled to expire on March 20, 2015, is hereby extended to March 20, 2017.

II. Background

As a result of safety and national security concerns regarding flight operations in the Tripoli (HLLL) FIR, the FAA issued § 91.1603 of title 14, Code of Federal Regulations, SFAR No. 112, in March 2011 (76 FR 16238, March 23, 2011). SFAR No. 112 prohibits all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman

certificate issued by the FAA, 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 operators of such aircraft that are foreign air carriers, from conducting flight operations in the Tripoli (HLLL) FIR, except as provided in paragraphs (c) and (d) of the SFAR.

When SFAR No. 112 was issued, an armed conflict was ongoing in Libya and presented a potential hazard to civil aviation. The FAA was concerned that runways at Libya's international airports, including the main international airports serving Benghazi (HLLB) and Tripoli (HLLT), might be damaged or degraded. There was also concern that air navigation services in the Tripoli FIR might be unavailable or degraded. In addition, the proliferation of air defense weapons, including Man-Portable Air-Defense Systems (MANPADS), and the presence of military operations, including Libyan aerial bombardments and unplanned military flights entering and departing the Tripoli (HLLL) FIR, posed a potential hazard to U.S. operators, U.S.-registered aircraft, and FAA-certificated airmen that might operate within the Tripoli (HLLL) FIR. Additionally, the United Nations Security Council adopted Resolution 1973 on March 18, 2011, which mandated a ban on all flights in the airspace of Libya, with certain exceptions.

By March 2014, although the Gadhafi regime had been overthrown and the UN-mandated ban on flights in Libyan airspace had been lifted, the FAA continued to have significant security concerns for Libya and for the safety of U.S. civil aviation operations in that country. On March 20, 2014, the FAA extended the expiration date of SFAR No. 112, § 91.1603, to March 20, 2015. The FAA considered that, on December 12, 2013, the Department of State had issued a Travel Warning strongly advising against all non-essential travel to Libya. Various groups had called for attacks against U.S. citizens and U.S. interests in Libya. Many military-grade weapons remained in the hands of private individuals and groups, among them anti-aircraft weapons that could be used against civil aviation, including MANPADS. The Travel Warning also warned that closures or threats of closures of the international airports occurred regularly for maintenance, labor, or security-related reasons. For those reasons, on March 21, 2014, the FAA published a final rule (79 FR 15679; corrected at 79 FR 19288, April 8, 2014) extending the expiration date of SFAR No. 112, § 91.1603, to March 20, 2015.

The FAA continues to have significant concerns regarding the safety of U.S. civil aviation operations in the Tripoli (HLLL) FIR at all altitudes due to the hazardous situation created by the ongoing fighting involving various militant groups and Libyan military forces in various areas of Libya, including some near Tripoli and Benghazi. Islamist militant groups hold and control significant portions of Western Libya, including Tripoli International Airport (HLLT). Militant groups, such as Libyan Dawn, possess a variety of anti-aircraft weapons, which give them the capability to target aircraft upon landing and departure and at higher altitudes.

Civil aviation infrastructure is at risk from indirect fire from mortars and rockets targeting Libyan airports during the ongoing fighting. Civil aviation in the Tripoli FIR is also at risk from aerial combat operations and other military activity conducted by Libyan forces.

Furthermore, the security situation in the Tripoli (HLLL) FIR continues to be unpredictable and unstable. Therefore, since there is a significant continuing risk to the safety of U.S. civil aviation in the Tripoli (HLLL) FIR, the FAA hereby extends the expiration date of SFAR No. 112, § 91.1603, for an additional two years.

The FAA will continue to actively evaluate the area to determine to what extent U.S. civil operators may be able to safely operate therein. Adjustments to this SFAR may be appropriate if the risk to aviation safety and security changes. The FAA may amend or rescind this SFAR as necessary prior to its expiration date.

Additionally, the FAA is amending paragraph (c), Permitted operations, of SFAR No. 112, § 91.1603, to make clear that operations by sub-contractors under a U.S. Government department, agency, or instrumentality's contract, grant, or cooperative agreement may be included in an approval request and to remove an obsolete reference to paragraph 8 of UNSCR 1973. UNSCR 2016 (2011) terminated paragraphs 6 to 12 of UNSCR 1973, effective 23:59 p.m. Libyan local time on October 31, 2011. The FAA is also revising the approval conditions that will apply to operations authorized by other U.S. Government departments, agencies, and instrumentalities and approved by the FAA, and the information about requests for exemption, to reflect the termination of statutory authorization for the FAA premium war risk insurance program. Section 102 of Division L of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235, December 16, 2014, *inter alia,* amended 49 U.S.C. 44302(f) and 44310(a) to specify the termination dates in those sections as December 11, 2014. The effect was to terminate coverage under FAA's *premium* war risk insurance program as of December 11, 2014.

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. 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.

Revised Approval Conditions

As noted above, Congress terminated coverage under FAA's *premium* war risk insurance program as of December 11, 2014. Consequently, the FAA is revising the approval conditions that will apply to any approvals that the FAA may grant for flight operations authorized by another U.S. Government department, agency or instrumentality in the Tripoli (HLLL) FIR to remove material related to this program. When the FAA approves such operations, the FAA's Aviation Safety Organization (AVS) will send a letter to the requesting department, agency, or instrumentality confirming that the FAA's approval is subject to the following conditions:

(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) Before any approval takes effect, the operator must submit to the FAA:

(a) a written release of the U.S. Government from all damages, claims, and liabilities, including without limitation legal fees and expenses; and

(b) the operator's agreement to indemnify the U.S. Government 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 approved operations in the Tripoli (HLLL) FIR; and

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

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 of title 49, United States Code.

If the proposed operation or operations are approved, the FAA will issue OpSpecs to the certificate holder authorizing these operations and will notify the department, agency, or instrumentality that requested FAA approval of civil flight operations to be conducted by one or more persons described in paragraph (a) of SFAR No. 112, § 91.1603, of any additional conditions beyond those contained in the approval letter. 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. 112, § 91.1603, on whose behalf the department, agency, or instrumentality requests FAA approval.

Requests for Exemption

Any operations not conducted under the approval process set forth above must be conducted under an exemption from SFAR No. 112, § 91.1603. A request by any person covered under this SFAR 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 Tripoli 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, the release and agreement to indemnify, as referred to above, will be required as a condition of any exemption issued under this SFAR. The FAA recognizes that operations that may be affected by SFAR No. 112, § 91.1603, 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 Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 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 (Pub. L. 96–354), as codified in 5 U.S.C. 603 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Pub. L. 96–39), as amended, 19 U.S.C. Chapter 13, 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 (Pub. L. 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 a 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 extends, by an additional two years, the prohibition by SFAR No. 112 of flight operations within the Tripoli (HLLL) Flight Information Region (FIR) by all: U.S. air carriers, U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, 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 operators of such aircraft that are foreign air carriers. Because of the civil war that was ongoing in Libya when SFAR No. 112 was issued, the FAA believed that few, if any, operators were operating in the Tripoli (HLLL) FIR. Consequently, the FAA found the costs of SFAR No. 112 to be minimal. Given the continuing threats to civil aviation in the Tripoli (HLLL) FIR described in the Background section of this final rule, including but not limited to ongoing fighting involving various groups, the FAA has determined that the costs of continuing to prohibit U.S. civil flights in the Tripoli FIR are still minimal. These minimal costs are exceeded by the benefits of avoiding the significant hazards to civil aviation detailed above in the Background section of this preamble.

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 (Pub. L. 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.

As discussed above, the FAA estimates the costs of this rule will be minimal. 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 (Pub. L. 96–39), as amended, 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 this Act, 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 potential hazards 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 (Pub. L. 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, it is FAA policy to conform to International Civil Aviation Organization (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 this regulation.

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 312f of this order and involves no extraordinary circumstances.

The FAA has reviewed the implementation of the SFAR and determined it is categorically excluded from further environmental review according to FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 312f. The FAA has examined possible extraordinary circumstances and determined that no such circumstances exist. After careful and thorough consideration of the action, the FAA finds that this Federal action does not require preparation of an Environmental Assessment or Environmental Impact Statement 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 has determined that this action would 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, would 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 would not be a ''significant energy action'' under the executive order and would not be 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, (77 FR 26413, May 4, 2012) 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. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

- Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
- Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
- Accessing the Government Printing Office's Web page at *http://www.fdsys.gov*.

Copies may also be obtained by sending 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. Please identify the docket or amendment number of this rulemaking in your request.

All documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced above.

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** heading 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, Libya.

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 continues 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. In § 91.1603, revise paragraphs (c) and (e) to read as follows:

§ 91.1603 Special Federal Aviation Regulation No. 112—Prohibition Against Certain Flights Within the Tripoli (HLLL) Flight Information Region (FIR).

* * * * *

(c) *Permitted operations.* This section does not prohibit persons described in paragraph (a) of this section from conducting flight operations within the Tripoli (HLLL) FIR under the following conditions:

(1) 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 described in paragraph (a) of this section), 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.

(2) [Reserved]

* * * * *

(e) *Expiration.* This Special Federal Aviation Regulation will remain in effect until March 20, 2017. The FAA may amend, rescind, or extend this Special Federal Aviation Regulation as necessary.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), on March 19, 2015.

Michael P. Huerta,

Administrator.

[FR Doc. 2015–06697 Filed 3–20–15; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AE22

Residual Interest Deadline for Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is amending its regulations to remove the December 31, 2018 automatic termination date for the phased-in compliance schedule for futures commission merchants (''FCMs'') and provides assurance that the residual interest deadline, as defined in the regulations (''Residual Interest Deadline''), will only be revised through a separate Commission rulemaking.

DATES: The final rule is effective May 26, 2015.

FOR FURTHER INFORMATION CONTACT:

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Division of Clearing and Risk: Kirsten V.K. Robbins, Associate Chief Counsel, 202–418–5313, *krobbins@cftc.gov,* Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

Office of the Chief Economist: Stephen Kane, Research Economist, 202–418–5911, *skane@cftc.gov,* Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

On October 30, 2013, the Commission amended Regulation 1.22 to enhance the safety of funds deposited by customers with FCMs as margin for futures transactions.[1] The amendments require an FCM to maintain its own capital (hereinafter referred to as the FCM's ''Residual Interest'') in customer segregated accounts in an amount equal to or greater than its customers' aggregate undermargined amounts.[2] The Commission established a phased-in compliance schedule for Regulation 1.22 with an initial Residual Interest Deadline of 6:00 p.m. Eastern Time on the date of the settlement referenced in Regulation 1.22(c)(2)(i) or (c)(4) (the ''Settlement Date''), beginning November 14, 2014.[3] Amended Regulation 1.22 also directs staff to host a public roundtable and publish a report for public comment by May 16, 2016 addressing, to the extent information is practically available, the practicability (for both FCMs and customers) of moving the Residual Interest Deadline from 6:00 p.m. Eastern Time on the Settlement Date, to the time of settlement or to some other time of day.[4] Furthermore, amended Regulation 1.22 provides that, absent Commission action, the phased-in compliance period for the Residual Interest Deadline automatically terminates on December 31, 2018.[5] In the case of such automatic termination, the Residual Interest Deadline would change to the time of settlement on the Settlement Date.

II. The Proposal

On November 3, 2014, the Commission proposed to revise Regulation 1.22 to remove the December 31, 2018 automatic termination of the phase-in compliance period.[6] In the NPRM, the Commission stated the intention to retain the Residual Interest

[1] Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations, Final Rule, 78 FR 68506 (Nov. 14, 2013) (amending 17 CFR parts 1, 3, 22, 30 and 140).

[2] *See* 17 CFR 1.22(c)(3)(i). As defined in Regulation 1.22(c)(1), a customer's account is ''undermargined,'' when the value of the customer funds for a customer's account is less than the total amount of collateral required by derivatives clearing organizations for that account's contracts. *See* 78 FR 68513, n.30.

[3] *See* 17 CFR 1.22(c)(5)(ii); *See* 78 FR at 68578.

[4] *See* 17 CFR 1.22(c)(5)(iii)(A).

[5] *See* 17 CFR 1.22(c)(5)(iii)(C).

[6] Residual Interest Deadline for Futures Commission Merchants, Notice of Proposed Rulemaking, 79 FR 68148 (Nov. 14, 2014) (amending 17 CFR part 1).