

(a) Provide the appropriate military authority feedback through the TSOC on the impact of restrictions and when the restrictions have been implemented.

(b) Impose restrictions on civil aviation as directed by DOT/DHS.

(c) Disseminate ESCAT implementation instructions to U.S. civil aircraft operators and airports.

Subpart E—ESCAT Air Traffic Priority List (EATPL)

§ 245.20 Purpose.

When ESCAT is implemented, a system of traffic priorities may be required to make optimum use of airspace, consistent with air defense requirements. The EATPL is a list of priorities that may be used for the movement of air traffic in a defined area. Priorities shall take precedence in the order listed and subdivisions within priorities are equal.

§ 245.21 ESCAT air traffic priority list.

(a) *Priority One.* (1) The President of the United States, Prime Minister of Canada and respective cabinet or staff members essential to national security, and other members as approved or designated by the Secretary of Defense and Chief of the Defence Staff.

(2) Aircraft engaged in active continental defense missions, including anti-submarine aircraft, interceptors, air refueling tanker aircraft, and airborne early-warning and control aircraft (e.g., E-3, E-2, P-3).

(3) Military retaliatory aircraft, including direct tanker support aircraft, executing strategic missions.

(4) Airborne command elements which provide backup to command and control systems for the combat forces.

(5) Anchor annex flights.

(b) *Priority Two.* (1) Forces being deployed or in direct support of U.S. military offensive and defensive operations including the use of activated Civil Reserve Air Fleet (CRAF) aircraft as necessary, and/or other U.S. and foreign flag civil air carrier aircraft under mission control of the U.S. military.

(2) Aircraft operating in direct and immediate support of strategic missions.

(3) Search and rescue aircraft operating in direct support of military activities.

(4) Aircraft operating in direct and immediate support of special operations missions.

(5) Federal flight operations in direct support of homeland security, e.g., Law Enforcement Agencies (LEA) and aircraft performing security for high threat targets such as Nuclear Power Plants, Dams, Chemical Plants, and other areas identified as high threat targets.

(c) *Priority Three.* (1) Forces being deployed or performing pre-deployment training/workups (e.g., Navy Field Carrier Landing Practice) in support of the emergency condition.

(2) Aircraft deployed in support of CONUS installation/base defense, i.e., aircraft operating in direct/immediate security support, or deploying ground forces for perimeter defense.

(3) Search and rescue aircraft not included in Priority Two.

(4) Flight inspection aircraft flights in connection with emergency restoration of airway and airport facilities in support of immediate emergency conditions.

(5) Continental U.S. Airborne Reconnaissance for Damage Assessment (CARDA) missions in support of immediate emergency conditions.

(d) *Priority Four.* (1) Dispersal of tactical military aircraft.

(2) Dispersal of U.S. civil air carrier aircraft allocated to the CRAF Program.

(3) Repositioning of FAA/DoD/DND flight inspection aircraft.

(4) Flight inspection activity in connection with airway and airport facilities.

(5) Specific military tactical pilot currency or proficiency in support of homeland defense.

(6) Military tactical aircraft post-maintenance test flights.

(7) Federal aircraft post maintenance check flights in support of homeland security.

(e) *Priority Five.* (1) Air transport of military commanders, their representatives, DoD/DND-sponsored key civilian personnel, non-DoD/DND or other Federal key civilian personnel who are of importance to national security.

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(2) Dispersal of non-tactical military aircraft for their protection.

(3) Aircraft contracted to and/or operated by Federal agencies

(f) *Priority Six.* (1) State and local LEA directly engaged in law enforcement missions.

(2) Flight operations in accordance with approved Federal and State emergency plans.

(3) LIFEGUARD and MEDEVAC aircraft in direct support of emergency medical services.

(4) Flight operations essential to the development, production, and delivery of equipment, personnel, materials, and supplies essential to national security.

(5) Other essential CARDA missions not covered in Priority Three.

(g) *Priority Seven.* Other military flight operations.

(h) *Priority Eight.* Other flight operations not specifically listed in priorities 1 through 7.

§ 245.22 Policy for application of EATPL.

(a) The originator of an aircraft flight operation under the EATPL shall be responsible for determining and verifying that the mission meets the appropriate definition and priority in accordance with the list described in § 245.22 of this part, and ensuring a security check of crew, cargo and aircraft has been completed prior to take off.

(b) The individual filing the flight plan will be responsible for including the priority number as determined by the originator of the aircraft flight operation, in the remarks section of the flight plan.

(c) Situations may occur that cannot be controlled by the EATPL. Aircraft emergencies and inbound international flights that have reached the point of no return, including foreign air carrier flights en route to safe haven airports in accordance with specific international agreements are examples of such situations. These events must be treated individually through coordination between ATC and appropriate military authorities in consideration of the urgency of the in-flight situation and existing tactical military conditions.

(d) *Exceptions to EATPL.* (1) DoD aircraft in priorities three through seven that do not meet EATPL restrictions may request an exemption from the appropriate military authority. For the contiguous 48 U.S. states, Alaska, Puerto Rico, U.S. Virgin Islands and Canada, requests shall be submitted to the appropriate NORAD Sector. For Hawaii, Guam, Wake Island, other U.S. Pacific Territories, and Pacific oceanic airspace over which FAA has air traffic control jurisdiction by international agreement, requests shall be submitted to the designated AADC.

(2) For Federal, State, local government agencies and aircraft in priority eight, a Security Control Authorization may be granted on a case-by-case basis. Requests for SCAs will be coordinated through TSA. TSA will forward those requests that it recommends for approval to the appropriate military authority. Aircraft with a SCA shall have a Security Assurance Check prior to take off. Refer to specific SCA procedures provided in separate agreement between the appropriate military authority and TSA.

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Subpart F—Procedure for Movement of Air Traffic Under ESCAT

§ 245.24 Aircraft assigned an EATPL number 1 or 2.

Aircraft assigned an EATPL number 1 or 2 will not be delayed, diverted, or rerouted by Combatant Commanders. However, commanders may recommend that this traffic be rerouted to avoid critical or critically threatened areas.

§ 245.25 Aircraft assigned an EATPL number other than 1 or 2.

Aircraft assigned an EATPL number other than 1 or 2 may be delayed, diverted, or rerouted by Combatant Commanders to prevent degradation of the air defense system.

§ 245.26 Aircraft being recovered.

Aircraft being recovered will be expedited to home or an alternate base.