[4910 - 13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

Changes in Permissible Stage 2 Airplane Operations

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Statutory Changes

SUMMARY: The FAA is notifying operators of Stage 2 airplanes of recent changes to the Airport Noise and Capacity Act that except certain airplanes from the law and allow other Stage 2 airplanes to operate past the statutory deadline for certain operations. This notice explains the effect of the law and provides a procedure for operators to use to obtain a special flight authorization allowing nonrevenue flight of Stage 2 airplanes.

FOR FURTHER INFORMATION CONTACT:
Mr. Thomas Connor, Manager, Noise Division (AEE-100), Office of Environment and Energy, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8933, fax (202) 267-5594, email Thomas.Connor@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Airport Noise and Capacity Act (ANCA) of 1990 prohibits the operation of civil subsonic turbojet Stage 2 airplanes over 75,000 pounds in the contiguous United States after December 31, 1999. The original version of the

law did not distinguish airplanes by type of certification or operation. The waiver provisions of the original law are very limited, and address only limited revenue operation of Stage 2 airplanes by U.S. air carriers.

On November 29, 1999, the President signed into law certain changes to ANCA that affect operators of Stage 2 airplanes. The prohibition on revenue operations of Stage 2 airplanes after December 31, 1999, remains in effect. The FAA was not granted any new authority to allow anyone to operate a Stage 2 airplane in revenue service after December 31, 1999. The changes to the law are summarized as follows.

Conflicting Regulations in 14 CFR Part 91

The changes described below may appear to conflict with various portions of the noise transition regulations currently codified at 14 CFR §91.801 through 91.877. However, the new provisions state that the regulations are to be considered modified where they conflict with any new statutory provisions. The FAA is aware that the statutory change is not apparent to anyone reading the regulations, and plans to change the regulations through appropriate rulemaking within the next year.

Experimental Certificates

Turbojet airplanes over 75,000 pounds that operate under an experimental airworthiness certificate have been excepted from the law. The requirement that aircraft over 75,000 pounds meet Stage 3 noise levels no longer applies to airplanes with experimental airworthiness certificates. These airplanes may continue to be flown after December 31, 1999, without further action by the

operator or by the FAA. The prohibition on non-Stage 3 operation continues to apply to all airplanes operating under any other type of airworthiness certificate.

Hawaiian Operators

Certain operators of Stage 2 airplanes in Hawaii are now allowed to bring their Stage 2 airplanes to the contiguous United States for maintenance or major alterations. This change to the statute permits these flights without further action by the operator or by the FAA.

Nonrevenue Stage 2 Operations

The revised law now permits a range of nonrevenue Stage 2 operations to occur after December 31, 1999. Any operator of a Stage 2 airplane over 75,000 pounds may operate that airplane in the contiguous United States for the following purposes:

- sell, lease or scrap the airplane
- obtain modifications to meet Stage 3 noise levels
- obtain scheduled heavy maintenance or significant modifications
- deliver the airplane to a lessee or return it to a lessor
- park or store the airplane
- prepare the airplane for any of these events

With regard to these listed uses, operators are advised to note the following:

1) Nonrevenue flight is a shorthand term. Whether you are a commercial or noncommercial operator, Stage 2 operations are restricted to the purposes listed above only. No "dual purposes" are allowed. For example, you may not operate a Stage 2 airplane for one of the listed

purposes and also transport a company official or company goods, or accomplish any action in furtherance of company business. Nonrevenue service means that the flight does not generate any revenue for carrying passengers or cargo.

2) Operators moving a Stage 2 airplane to a location where Stage 3 modifications may be obtained must provide a copy of the modification contract to the FAA with the application for a special flight authorization. For the other purposes, documentation of the activity may be required depending on the circumstances presented.

3) "Scheduled heavy maintenance" means a "C" or "D" check. The FAA interprets the statutory language to mean that operators of Stage 2 airplanes may not request a special flight authorization to accomplish routine light maintenance actions in the United States.

4) Similarly, "significant modifications" is interpreted as those that require specialized knowledge or equipment not readily available elsewhere, or is not practicable to obtain outside the United States. All requests claiming significant modifications will be reviewed individually.

5) No Stage 1 operations of covered airplanes are permitted for any reason.

Special Flight Authorizations

The FAA is implementing the provisions of the law that allow nonrevenue flights by issuing special flight authorizations. An operator of a Stage 2 airplane that wishes to operate in the contiguous United States for any of the purposes

listed in the revised statute (and above) may apply to the FAA's Office of Environment and Energy (AEE) for a special flight authorization. The applicant must file in advance. Applications are due 30 days in advance of the planned flight and must provide the information necessary for the FAA to determine that the planned flight is within the limits prescribed in the law.

Any Stage 2 airplane (not otherwise excepted from the law) that operates for any reason after December 31, 1999, without a special flight authorization will be considered in violation of the law. The operator may be subject to civil penalties (including a fine of up to $11,000 per flight) or other remedial actions, including cease and desist orders. Once granted, the special flight authorization must be carried on board the airplane during the authorized flight. Similar to other special flight authorizations, only flight crew members are permitted on board the airplane during the flight. Further, the special flight authorizations issued by AEE are for noise only. They are not substitutes for any other authorization or ferry permit that may be required for airworthiness or other reasons, such as those granted under 14 CFR § 21.199 or § 43.3.

To simplify the application process, the FAA has developed a form that lists the information that the applicant must supply. Use of this form is not mandatory; it is intended to simplify the process. The form does contain important reminders about the use of special flight authorizations. In some cases, more information than is requested on the form may be necessary for the FAA to determine whether a special flight authorization can be issued.

The form has received OMB approval for information collection and can be obtained on the FAA's web site (http://www.aee.faa.gov/sfa/), or by fax or mail by contacting the Office of Environment and Energy at the number listed in the For Further Information Contact section above. The form is also reproduced below.

Given the short notice of these changes and procedures necessitated by the recent passage of the legislation, the FAA will make every attempt to satisfy the needs of affected operators of Stage 2 airplanes in a timely manner. Operators of Stage 2 airplanes that have any questions concerning their rights or requirements under the new statutory language are encouraged to contact the FAA as soon as possible.

Request for Special Flight Authorization
Stage 2 Airplane over 75,000 Pounds

1. Applying Operator:

   a) Operator's Name:
   b) Address:

   c) City:
   d) State and zip code
   e) Country:
   f) Contact Name:
   g) Contact Phone Number:
   h) Contact Fax Number:
   i) Contact E-mail Address:

2. Airplane:

   a) Airplane Make, Model, and Series:
   b) Registration Number (including country of registration):
   c) Serial Number:
   d) Current Noise Certification (check one):
      ☐ Stage 1 ☐ Stage 2

3. Purpose (check one and fill in appropriate fields):

   ☐ a) Sell, lease or use the airplane outside the contiguous 48 States;

   ☐ b) Scrap the airplane;

   ☐ c) Obtain modifications to the airplane to meet Stage 3 noise levels (copy of modification contract required with this application);

   ☐ d) Perform scheduled heavy maintenance or significant modifications on the airplane at a maintenance facility in the contiguous 48 States. Maintenance (check all applicable):

      ☐ 'C' Check
      ☐ 'D' Check
      ☐ Other significant modifications (describe):

☐ e) Deliver the airplane to a lessee (include name and address of both parties below);

f) Return the airplane to the lessor (include name and address of both parties below);

☐ g) Prepare or park or store the airplane in anticipation of any of the activities described in (a) through (e) (include name and location of storage or maintenance facility):

Company's Name:
Company's Location:

4. Flights:

a) Dates (approximate start and end dates);
b) Describe each flight (origin and destination). Designate if fuel stop only.

Flight 1:
Flight 2:
...
Flight ____:

5. Other information:

NOTE: This form is an application for a special flight authorization only. It may not be used to fly an airplane. It must be submitted to the FAA, which will issue a special flight authorization based on the information submitted.

When issued, the Special Flight Authorization must be carried on board the airplane during the authorized flight. Persons on board are limited to flightcrew only. A Special Flight Authorization issued pursuant to this application is for noise only, and may not be used as a substitute for other ferry permit or authorization that may be required for airworthiness or other purposes, such as 14 CFR § 21.199 or § 43.3.

Paperwork Reduction Act Statement: The information collected on this form is required by PL 106-113. The FAA will use the information to issue special flight authorizations for nonrevenue operations of Stage 2 airplanes at U.S. airports. The annual burden is estimated to be 25 hours based on 100 requests at 15 minutes per request. The submission of information is voluntary. If proprietary information is submitted, it will be protected in accordance with appropriate laws. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 2120-0652.

(FAA Changes in Permissible Stage 2 Airplane Operations)

Issued in Washington, DC on December 13, 1999.

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Deputy Director, Office of Environment and Energy