

October 9, 1980

of those airplanes prior to the effective date of Part 125 is governed by the noise limit rules applicable to their operation under Parts 91, 121, 123, 129, or 135. The Part 125 notice proposed not to change the applicability of the noise rules to the operation of the affected airplanes after they become subject to Part 125. It stated that necessary editorial changes would be made to the noise rules on the basis of the Part 125 proposal. These amendments are part of the implementation of new Part 125 and are necessary to ensure that the noise control and abatement benefits of Part 91, Subpart E, are not reduced or lost through the adoption of new Part 125.

EFFECTIVE DATE: February 1, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, 800 Independence Ave., SW., Washington, D.C. 20591; Telephone: (202) 755-9027.

SUPPLEMENTARY INFORMATION:

Background of this Rulemaking Proceeding

These amendments result from a notice of proposed rulemaking (Notice No. 79-19: 44 FR 66324; November 19, 1979). That notice proposed a new Part 125 to provide a uniform set of operating certification and operation rules for all U.S. registered large airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds other than when engaged in common carriage or agricultural aviation operations. In response to comments, the proposed 5,000 pound payload applicability base has been revised to 6,000 pounds, as discussed in the amendment adopting new Part 125. A full statement of the need for new Part 125 is contained in Notice No. 79-19 and also in the amendment adopting new part 125 which is issued simultaneously with these amendments to Part 91, Subpart E.

In short, new Part 125 substantially upgrades the level of safety formerly applicable to the affected airplanes under Part 91. It also achieves regulatory simplification and ease of enforcement by applying a single set of regulations to the specified size of airplanes without regard to how they are used, except that common carriage operations are not covered. It is intended that new Part 125 will eliminate difficulties in regulatory interpretation which have been experienced by members of the public, operators, and FAA inspectors, particularly with respect to application of the "compensation or hire" test which is eliminated by new Part 125 with

14 CFR Part 91

[Docket No. 20813; Amendment No. 91-170]

Aircraft Operating Noise Limits for Airplanes Operating Under New Part 125

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments make necessary changes to apply to new Part 125 operators the aircraft operating noise limits rules of Part 91, Subpart E. Part 125 establishes a uniform set of operating certification and operation rules for U.S. registered, large airplanes having a seating capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more when used for any purpose other than common carriage. The operation of some

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respect to airplanes subject to its provisions. The adoption of new Part 125 is the final step in a regulatory upgrade and modernization program recommended by the Secretary of Transportation.

Relationship of Subpart E to Part 125

Part 91, Subpart E prescribes among other things, aircraft operating noise limits rules applicable to certain civil subsonic turbojet powered airplanes with maximum weights over 75,000 pounds and to certain civil supersonic airplanes that are operated in air commerce in the United States. Some of the airplanes subject to new Part 125 are airplanes covered by Subpart E. However, the applicability of Subpart E is keyed, in part, to that part of the Federal Aviation Regulations under which the airplane is operated, that is, Parts 91, 121, 123, 129, and 135. Some airplanes previously operated under those parts are subject to Part 125 on its effective date in accordance with compliance dates which it establishes.

Notice No. 79-19 proposed not to alter applicable operating noise limits rules for airplanes proposed to be covered under new Part 125. That notice stated that ". . . necessary editorial changes will be made to Subpart E on the basis of the [Part 125] proposal." One person commented on the noise aspects of the Part 125 proposal and concurred that the final rule should accomplish the result quoted above from the notice.

Description of Amendments

Necessary amendments are made to Part 91, Subpart E, to specify its applicability to operations of affected airplanes under Part 125. These airplanes are governed by a new § 91.302 which designates the applicable regulations. Airplanes already subject to requirements in Parts 91, 121, 123, 129, and 135 before November 1, 1980, remain subject to those requirements, including phased compliance for subsonic airplanes operated under Part 121 and 135. Subsonic airplanes not operating in the United States under either of those parts before November 1, 1980, are subject to the same requirements as those previously applicable to Part 91 and 123 operators, including the timely submission of compliance plans under § 91.308. Phased compliance requirements do not apply to those airplanes. Supersonic airplanes operated under Part 125 must comply with the provisions of §§ 91.309 and 91.311.

November 1, 1980, is the operative for designation of applicable regulations under Subpart E of Part 91 in order to preclude changes in operations between

that date and the Part 125 effective date which would have the effect of evading the specified requirements.

Notwithstanding the provisions of Part 125 permitting the approval of deviations from the other requirements of that part, the noise requirements applicable to the operation of affected airplanes would not be changed by that approval. It should be noted that some of the amendments to Subpart E, which will implement the Aviation Safety Noise Abatement Act of 1979, apply to all aircraft, when adopted, regardless of the part under which they are operated.

Adoption of the Amendment

Accordingly, Part 91, Subpart E, is amended as follows effective February 1, 1981:

§ 91.301 [Amended]

1. By amending § 91.301(a) of subpart E as follows:

a. By amending paragraphs (a)(1) and (a)(3) in each case after the first word "Sections" by adding the word "91.302" followed by a comma and in the last sentence by deleting the words "Parts 121, 123, 129, and 135 of this chapter" and substituting for them the words "Parts 121, 123, 125, 129, and 135 of this chapter."

b. By amending paragraph (a)(2) by deleting the words "Parts 121, 123, and 135" and substituting for them the words "Parts 121, 123, 125, and 135."

2. By adding a new § 91.302 to Subpart E to read as follows:

§ 91.302 Part 125 operators: designation of applicable regulations.

For airplanes covered by this subpart and operated under Part 125, the following regulations apply as specified:

(a) For each airplane operation to which requirements prescribed under this subpart applied before November 1, 1980, those requirements of this subpart continue to apply.

(b) For each subsonic airplane operation to which requirements prescribed under this subpart did not apply before November 1, 1980, because the airplane was not operated in the United States under this part or Part 121, 123, 129 or 135, the requirements prescribed under §§ 91.303, 91.306, 91.307, and 91.308 of this subpart apply.

(c) For each supersonic airplane operation to which requirements prescribed under this subpart did not apply before November 1, 1980, because the airplane was not operated in the United States under this part or Part 121, 123, 129, or 135, the requirements of §§ 91.309 and 91.311 of this subpart apply.

(d) For each airplane required to operate under Part 125 for which a deviation under that Part is approved to operate, in whole or in part, under this part or Parts 121, 123, 129, or 135, notwithstanding the approval, the requirements prescribed under paragraphs (a), (b), and (c) of this section continue to apply.

3. By amending § 91.305 of Subpart E as follows:

a. By revising the heading to read as follows:

§ 91.305 Phased compliance under Parts 121, 125, and 135: subsonic airplanes.

b. By amending paragraph (a) after the words "under Parts 121 or 135 of this chapter" by inserting the words "or under Part 125 of this chapter, as prescribed under § 91.302 of this subpart."

(Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1423, 1424 and 1431)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title III, Aviation Safety and Noise Abatement Act of 1979 (94 Stat. 50)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above, under the caption "For Further Information Contact."

Issued in Washington, D.C., on October 2, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-31473 Filed 10-6-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 91**[Docket No. 20813, Amdt. No. ~~91-170A~~]**Aircraft Operating Noise Limits for Airplanes Operating Under New Part 125; Amended Date of Designation of Applicable Rules****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule: Request for comments.

SUMMARY: On October 9, 1980, the FAA published its final rule (Amendment No. 91-170) concerning the operating noise limits rule for certain aircraft operated under new Part 125, which becomes effective February 1, 1981 (45 FR 67258). That rule designates the provisions of the noise rule that apply to particular airplanes on a specified date before Part 125 becomes effective. The date of November 1, 1980, was used because the proposed amendments to the aircraft operator noise rule that are required to implement Title III of the Aviation Safety and Noise Abatement of 1979 (Notice No. 80-7) were scheduled to be effective before that date and must be reflected in the noise requirements for those affected airplanes operated under Part 125. However, issuance of those amendments has been delayed and, the date of November 1, 1980, is no longer viable to achieve the intended result. This action amends the date of designation of applicable rules in new § 91.302, adopted in Amendment No. 91-170 to read "Nov. 29, 1980," the day after the amendments to Subpart E of Part 91 implementing Title III of the Aviation Safety and Noise Abatement Act of 1979 became effective.

DATES: Effective date—February 1, 1981. Comments must be received on or before March 1, 1981.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 20813, 800 Independence Avenue, SW., Washington, DC 20591;

Or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC.

Comments may be examined in the Rules Docket, weekdays except Federal Holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE-110), Noise

Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:**Request for Comments on the Rule**

Although this action is in the form of a final rule, comments are invited on the rule. It involves amendments to the provisions that designate applicable rules under § 91.302 to achieve the intended effect discussed in the preamble to Amendment No. 91-170; thus, it was not preceded by further notice and public procedure. When the comment period ends, the FAA will use any comments received, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Since the subjects and issues involved in this amendment, were already subject to notice and public procedure on the proposed rule, and this amendment is necessary to achieve the regulatory effects contemplated at the time of issuance of the final rule, I find that further notice and public procedure before issuing this amendment is not necessary.

Adoption of the Amendment

Accordingly, § 91.302 of Part 91 of the Federal Aviation Regulations (14 CFR Part 91) as adopted in Amendment 91-170 (45 FR 67259; October 2, 1980), is amended, effective February 1, 1981, by deleting the words "November 1, 1980," in each place they appear and by substituting for them the words "November 29, 1980,"

(Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1423, 1424, and 1431); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title III, Aviation Safety and Noise Abatement Act of 1979 (94 Stat. 50)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves amendments that are corrective and editorial

in nature and are needed to achieve the substance of the regulation contemplated under the final rule, the anticipated impact is so minimal that it does not warrant preparation of a separate regulatory evaluation.

Issued in Washington, DC, on November 17, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-38522 Filed 11-28-80; 8:45 am]

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