

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

14 CFR Part 91

[Dockets Nos. 18955 and 18924; Amdt. 91-161]

**Aircraft Operating Noise Limits;
 Compliance Plans and Expanded
 Definition of "Replacement Airplanes"**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

See compliance dates

SUMMARY: This amendment (1) requires operators of turbojet airplanes covered by the rule to submit their respective plans for achieving timely and continuing compliance with the applicable noise limits and (2) expands the definition of "replacement airplanes." The operating noise limits rule applies to "U.S. registered civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates." The DOT/FAA has repeatedly stated its intent to obtain reasonable adherence to the phased noise reduction program set forth in Part 91, Subpart E. Since the first compliance date is approaching, it is advisable to require the operators to submit compliance plans so that the FAA can make appropriate plans for orderly administration of the rule. The nature and mobility of airplane fleets of the various aircraft operators covered by the rule, make it difficult for the FAA to obtain specific fleet and airplane compliance information in a comprehensive and uniform manner. While the FAA has continuously stated its intent to enforce the prescribed compliance schedule, the effectiveness of that enforcement is improved by requiring that current and updated operator plans for achieving and maintaining compliance are developed and made available to the FAA and the public. This amendment permits replacement of noncomplying airplanes with previously ineligible "Stage 1" or "Stage 2" airplanes that have been reengined, or otherwise modified, and certificated as "Stage 3 airplanes." The original operating noise limits rule assumed that this kind of modification would not be attractive within the compliance period. Accordingly, it permitted replacement only by airplanes shown to comply with Part 36 noise levels prior to the issuance of an original standard airworthiness certificate. Recent developments suggest that that assumption was wrong. If it had been possible to foresee the current reengining proposals that modify

existing aircraft to become Stage 3 airplanes, the FAA would have proposed to include those reengined airplanes as replacement airplanes in the original rulemaking. Therefore, those recertificated "Stage 3 airplanes" are being made eligible as "replacement airplanes" under the rule in order to increase the protection provided to the public health and welfare as contemplated under section 611 of the Federal Aviation Act of 1958, as amended.

DATES: Effective date: December 20, 1979.

Initial compliance plan due: Ninety days after notice is published in the Federal Register that the requirements of new § 91.308 have been approved by the office of Management and Budget or 90 days after commencing operation of airplanes covered by § 91.308, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Tedrick, Program Management Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 17, 1976, the FAA adopted Subpart E of Part 91 of the Federal Aviation Regulations (41 FR 56046; December 23, 1976), which prescribes operating noise limits for certain "U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates." Those requirements prohibit the operation in the United States of affected airplanes after specified dates unless they have been shown to comply with the noise levels ("Stage 2") prescribed under Part 36 in accordance with the provisions of Subpart E. For airplanes operated under operating certificates issued under Parts 121 and 135, Subpart E prescribes a phased compliance schedule requiring specified portions of an operator's fleet to achieve and maintain compliance by 1981 and 1983, with full and continuing compliance by all affected airplanes by 1985. Thus, on and after January 1, 1985, no person may operate in the United States any airplane covered by Subpart E, including those operated under Parts 91, 121, 123, and 135, unless compliance has been shown. Compliance may be achieved by the acoustical modification, or "retrofit," of noncomplying airplanes

or through their replacement with complying airplanes.

On April 26, 1979, the FAA published Notice No. 79-9 (44 FR 24778), which proposed amendments to the aircraft operating noise limits rule (1) to require operators of turbojet airplanes covered by the rule to submit their respective plans for achieving timely and continuing compliance with the applicable noise limits and (2) to expand the definition of "replacement airplanes" under the rule. The notice proposed to permit replacement of noncomplying airplanes with currently ineligible "Stage 1" or "Stage 2 airplanes" that have been reengined, or otherwise modified, and certificated under Part 36 as "Stage 3 airplanes." The current rule permits replacement only by airplanes shown to comply with Part 36 noise levels prior to the issuance of an original standard airworthiness certificate. The notice indicated that those recertificated "Stage 3 airplanes" should be eligible as "replacement airplanes" under the rule.

On April 26, 1979, the FAA also published for public comment a petition of the Air Transport Association of America (ATA) dated March 23, 1979, on behalf of its member air carriers, to eliminate the initial, January 1, 1981, phased compliance date under § 91.305 of Subpart E and to substitute for it a requirement that each operator submit a plan to the FAA by January 1, 1980, showing how it intends to comply with the 1983 and 1985 compliance dates (44 FR 24782; April 26, 1979). Docket No. 18924 was assigned to the ATA petition. This amendment partially grants the ATA petition with respect to the submission of compliance plans by each operator of aircraft covered by the rule. The FAA will also respond separately to the ATA petition under FAR Part 11.

The Need for This Amendment

Since its adoption in 1976, public, Congressional and other government interest in the achievement of the full benefits of the rule has increased significantly. The FAA has received numerous suggestions from the public and members of Congress that, in light of the rapidly approaching compliance dates of a rule designed to provide vital relief to millions of Americans living near airports, the FAA should move promptly to improve its compliance monitoring ability and to require the submission of compliance plans by airplane operators at the earliest practicable date. Of particular interest is the progress being made by air carriers and commercial operators who face the first phased compliance date of January 1, 1981.

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At the time it adopted the rule, the FAA had data and status reports concerning Part 36 compliance of airplanes in the various operator fleets upon which it based its analysis of the effects of the rule. However, since that time, the FAA has not had sufficient information on which to accurately assess the current or planned compliance status of the individual airplanes within the respective operator fleets. The complexities of the composition of those fleets, with numerous types and models of aircraft, their mobility, their requirements for repair and maintenance, and the generally changing nature and composition of the fleets, have made it virtually impossible for the FAA to obtain reliable, uniform, and continuously current information on fleet composition showing its current and planned future compliance status.

The FAA intends to ensure that compliance with the provisions of Subpart E is not compromised by planning failures that could have been avoided. If the FAA is unaware of problems or potential problems that might delay full compliance, it is unable to respond or take corrective action to alleviate those matters. Every effort will be made to ensure that the benefits of the Subpart E operating noise limits are achieved without delay.

Therefore, to avoid possible problems associated with inadequate monitoring of compliance and unreasonable delays in operator planning which may make compliance uncertain or impractical, the FAA should establish a program of required operators' noise compliance plans. The notice and the ATA petition proposed to require the submittal of compliance plans. Since airplane operators covered by the noise compliance rule should already have the necessary information as part of their fleet management programs and the strategies developed to achieve the required compliance, the objectives of the proposal can be achieved with a minimum of cost or other burden on the operators in submitting those plans and data under the reporting requirements prescribed by this amendment. Since any false statement or information submitted under § 91.308 may be punishable by fine or imprisonment under 18 U.S.C. 1001, reference to those provisions is included in the rule.

If those airplanes engaged in foreign air commerce, which are not required to comply (such as under an approved apportionment plan), are subsequently required to comply with Subpart E of FAR Part 91, the FAA will consider

extending the reporting requirement to those airplanes.

In its original investigation of the "replacement airplane" concept, the FAA did not contemplate that the older, noncomplying airplane types were susceptible to reengining, or other acceptable modifications to achieve noise levels much below the "Stage 2" noise limits. At that time, the newest technology represented by turbojet engines with bypass ratios greater than two had no successful application to these older airplanes for which airworthiness certificates had been issued in the past. Accordingly, the rule permits replacement only by the newest airplanes, that is, airplanes shown to comply with Part 36 ("Stage 2" or "Stage 3") noise levels prior to the issuance of an original standard airworthiness certificate. However, current type design modification programs, involving the reengining of certain noncomplying airplanes with high bypass ratio engines to achieve significant noise reductions and improve performance, appear promising enough that several airplane operators have expressed the commitment or interest in using DC-8 airframes reengined with the newest technology engines. There is also a program underway at Boeing to reengine the B-707 with high bypass ratio engines and bring the aircraft into Stage 3 compliance.

To provide an additional option to operators for meeting the noise requirements of Subpart E of Part 91 and to encourage the introduction of more aircraft that have shown compliance with the more stringent noise requirements for "Stage 3 airplanes," the definition of "replacement airplanes" under the rule should be expanded. The change would encourage the use of the new technology engines on certain airframes of Stage 1 airplanes with relatively low flight time, such as Boeing 707 and DC-8 airplanes delivered during the last decade. The newer engine applications would also have the benefits of increased fuel efficiency and reduced engine emissions. To the extent that such applications will be made to existing low flight time airframes of Stage 1 airplanes, the public and the economy would benefit from the efficiencies that result from extending the service life of those airframes.

Discussion of Comments and the Rule

The FAA received eleven comments in response to Notice No. 79-9 from members of the general public, aviation industry, and organizations representing consumer groups, pilots, and flight attendants. Most comments supported both proposals in whole or part, for the

reasons stated in the notice. These comments are discussed as follows:

The Airport Operators Council International supports the rule in its entirety and urges its final adoption at the earliest possible date. The Port Authority of New York and New Jersey fully agrees the FAA should actively monitor compliance with the fleet noise rules and should expand the definition of "replacement aircraft" to include reengined aircraft in recognition of technological developments that enable aircraft to be modified to meet Stage 3 noise requirements.

The Citizens Aviation Policy Association stated that it supports the amendment proposed by the FAA requiring regular progress reports from U.S. airlines on their noise reduction schedules. Those reports, according to the commenter, will help the FAA monitor progress in airline compliance with noise requirements. The comment also suggested that the compliance plans should be publicized so the public can know which airlines are cooperating.

The Town Village Aircraft Safety and Noise Abatement Committee supports the expansion of the term "replacement airplanes," since the result would be a quieter airplane. The commenter opposes the current exclusion in the rule for airlines that operate in foreign commerce because it negates the whole purpose of the FAA's noise abatement program and "short change the airport neighbors by not allowing them to get full benefits of noise abatement they have been waiting over twenty years to come about." The foreign commerce exception in the applicability of the rule was adopted in the original rule in 1976 and no change was proposed by Notice No. 79-9. The purpose of the exception is to permit the international implications of operating noise limits to be considered, and, hopefully, resolve by the appropriate international body, the International Civil Aviation Organization. In adopting the rule, the FAA also announced its intention to subsequently expand the scope of the rule to cover airplanes operated in foreign commerce in the United States, if an appropriate international compliance rule were not developed by 1980. The commenter's concern would be resolved in such separate rulemaking proceedings proposing to apply operating noise limits to airplanes operated in foreign commerce.

An individual commenter opposed the proposed rule because, according to the commenter, it would increase the red tape at a time when government is supposed to be cutting back on red tape. The commenter also stated the proposed

action (requiring airlines to submit reports) would eventually lead to higher airline ticket prices because the airlines will have to hire additional people. The FAA does not agree. Those airlines should already have compliance plans that involve essential current fleet management and management decisions currently needed to begin compliance. The FAA is merely requiring the airlines to format and submit compliance plan information that they should already possess and, as stated in the ATA petition, are prepared to submit.

The Air Transport Association (ATA) submitted extensive comments. It supports the intent of the proposals to permit as "replacement airplanes" those reengined airplanes which meet Stage 3 requirements. Their comments contended, however, that while the rule permits replacement planes shown to comply with Part 36 prior to the issuance of an original standard airworthiness certificate may use tradeoff provisions, a reengined or modified aircraft should not be precluded from using tradeoffs in showing compliance with Stage 3 noise requirements unless it qualifies under § 91.301(c)(3). Although a broad reading of the proposal might suggest that result, that limitation was not intended. The restriction on the use of tradeoffs, as in the original rule, applies only to showing compliance with Stage 2 noise levels not to the subsequently adopted Stage 3 noise levels, which are lower.

Nevertheless, Boeing and CAMMACORP have predicted that the reengined B-707 and DC-8, respectively, will meet the Stage 3 noise levels without the use of tradeoffs. Based on the prediction methods developed and proven over the past decade of turbojet noise certification, the predicted noise level data provided by Boeing and CAMMACORP appear to be accurate and attainable. However, this amendment would not disallow the use of tradeoffs, if necessary, for noise certification to Stage 3 noise levels by these reengined airplanes.

The ATA also commented that the FAA proposed compliance plans were unnecessarily detailed, impractical to accomplish, and unduly burdensome on the operators. The commenter felt that the plan would require detailed data on individual operator fleet planning which is proprietary in nature and should not be divulged to the public or to competitors. The FAA disagrees. The data on each airplane in each operator's fleet is necessary to ensure that all noncomplying airplanes are timely brought into and remain in compliance, generally without the use of tradeoffs and with the full application of existing

acoustical technology. As stated in Notice No. 79-9, compliance plans are needed to avoid potential problems associated with unreasonable delays in operator planning and implementation. Operators have had ample time to develop plans since January 24, 1977, the effective date of Subpart E. Those plans should include the timing of replacing airplanes or ordering and installing an adequate number of SAM treatment kits and quiet nacelles to achieve compliance for the required number of airplanes in each operator's fleet. The public interest in the environmental benefits achievable under the rule outweigh the nominal reporting burdens required to ensure the benefits are achieved.

The ATA suggested a simplified compliance plan format which would provide the number of airplanes by type, model, compliance status (Part 36 or Part 91, Subpart E), and operational status (in operation, retired, replaced, engaged in foreign air commerce, or being operated under an approved replacement plan). That modified plan would provide overall fleet compliance for each of the two fleets in each operator's inventory covered by the rule—one fleet including each four-engine, narrow-body DC-8 and B-707 and the other fleet including each other airplane, such as B-747, DC-10, L-1011, A-300, B-727, B-737, B-111, and DC-9. The FAA concludes that such a simplified overall fleet plan would not satisfy the significant public and regulatory interests in accurately assessing the current or planned compliance status of the individual airplanes within the respective operator fleets.

One purpose of the operating noise limits rule is to achieve noise reduction for each airplane covered by the rule through the full application of existing acoustical technology appropriate to the airplane type. While the phased compliance schedule deals with specified portions of an operator's fleet to provide the operator reasonable latitude in developing the means and specific timing for achieving compliance, the compliance planning and implementation necessarily focus on the individual airplanes. The FAA has reviewed the burdens of the proposed rule to ensure that they are minimized to the fullest extent possible consistent with its responsibility to be adequately informed on the status of compliance with the rule. The FAA has no desire to limit the timely achievement of compliance to some rigid, preconceived plan for each airplane in each operator's fleet. Within the limits of the rule, the

operators develop their own plans. However, specific plans for each airplane must be developed to eventually achieve full compliance. This amendment simply requires that those plans be provided the FAA to demonstrate the operator's compliance decisions and to permit the FAA to fulfill its compliance oversight responsibilities. The FAA recognizes the potential need to modify the plans for various valid reasons and this amendment permits those modifications in the form of revised plans. The operator already plans the purchase, sale, service, repair, maintenance, overhaul, retirement, etc. of individual airplanes and, thus, already has considerable fleet management information that is airplane specific. In light of the purposes of this amendment, it is not unreasonable to apply it to individual airplanes covered individually by the noise limits rule and to permit necessary revision of the plans by submitting the revised plan to the FAA.

The ATA contended that by differentiating between compliance with Part 36 and compliance with Subpart E of Part 91, the proposed regulation appears to be redundant. On the other hand, the ATA in its suggested simplified plan used the distinction in several items requesting information on "number by type and model." Thus, it appears that the distinction, based on the use versus nonuse of the tradeoff provisions in meeting the Stage 2 noise level limits, is clear and understood. In adopting Subpart E in 1976, the FAA decided that the operating noise limits rule would generally require airplanes to meet, without the use of tradeoffs, the ("Stage 2") noise level of Part 36. That decision was based on the need to ensure the maximum noise reduction by requiring the installation of proven technology (quiet nacelles and SAM kits) developed with the expenditure of \$16 million of Federal research and development funds by FAA alone. Thus, the acoustical hardware required to bring a noncomplying JT8D powered airplane into compliance with Subpart E is compatible with the acoustical hardware installed on airplanes produced after December 1, 1973, under the modified type design, as required by Amendment 36-2 (38 FR 29569; October 26, 1973). In addition, the fleet operators should benefit through standardization of acoustical hardware since the majority of nacelles and engines in service and in reserve will have complete kits. This certificated technology is appropriately identified in the "Table of Acoustical Technology/

Strategy Codes" presented in § 91.308(c)(5) of the rule.

The ATA also objected to airplane-specific compliance plans claiming that such detailed data reflecting each airplane's status and planned compliance strategy are proprietary in nature and subject to protection from public disclosure. The FAA notes that much of the required information is already in the public domain in various forms including corporate, industry, and government documents. While some of that information might be of benefit to competitors, operators frequently announce publicly for their own reasons their plans to buy, sell, retire, or replace airplanes. Some operators have announced their reengining programs for their DC-8 airplanes which they plan to keep in their fleets beyond January 1, 1985. Accordingly, the FAA finds no compelling argument for claiming that all the information required for compliance plans or their form should not be adopted because it might benefit competitors or it is proprietary and should not be required to be submitted. However, if an operator required to submit compliance plans believes that certain information contained in a plan is proprietary in nature and includes with the plan a claim for protection against public disclosure in accordance with section 1104 of the Act, the FAA will consider that claim on a case-by-case basis.

As stated in the comments submitted by the association, Subpart E of Part 91 recognizes that an operator has two possible fleets: one fleet including every type of subsonic four-engine no/low bypass ratio turbojet airplane over 75,000 pounds maximum gross weight; and one fleet including every other type of subsonic turbojet airplanes over 75,000 pounds. In order to reduce the reporting burden, and to permit the FAA to more easily compute the percentages of complying and noncomplying airplanes in each fleet of an operator, as adopted Section 91.308(c)(3) requires the operator to submit the total number of airplanes in each fleet. By so doing, it will not be necessary to require any operator to report airplane specific information on airplanes in the fleets but for which no additional compliance strategy is required by Subpart E. For example, airplanes such as the A-300, A-310, B-757, B-767, DC-10, L-1011, or any other newly certificated type of Stage 3 airplane which may be introduced into the U.S. civil fleet prior to January 1, 1985.

With respect to the proposed "Table of Acoustical Technology/Strategy Codes," the association commented that

a code should be added for "certain" B-727-200 airplanes which could meet the Stage 2 noise level limits without the use of tradeoffs solely by having the double wall fan duct treatment installed, (that is, less the quiet nacelles). The FAA disagrees. Section 1 (entitled "Certificate Limitations") of the B-727-100 Airplane Flight Manual clearly states "To comply with FAR Part 36, Appendix C, BG-19/BG-30 acoustical treatment and quiet nacelles must be installed on all engines for landing with 40 degree flaps at weight greater than 100,000 pounds." Paragraph 36.9(b) of Appendix C of FAR Part 36 specifies that the approach configuration that is most critical from a noise standpoint must be used for noise certification. That configuration, for the B-727-200, is the 40 degree flap setting. Therefore, if the suggested change were made, the code would not distinguish between certain B-727-100 and B-727-200 airplanes which require different acoustical treatment under the rule. Such a result would be counterproductive to achieving required noise level reduction. Furthermore, Advisory Circular 36-1B, Certificated Airplane Noise Levels, dated December 5, 1977, lists the various certificated versions of the B-727-200 powered by the JT8D-7, -9, -15, -17, and -17R engines. In all cases, the engine model number is followed by the letters QN indicating the installation of full acoustical technology (quiet nacelles and double wall fan duct treatment). Despite this full application of acoustical technology, the Advisory Circular listing shows that most of the B-727-200 airplanes required the use of tradeoffs to meet the Stage 2 noise levels. Thus, the "Table of Acoustical Technology/Strategy Codes" in this amendment shows a code for most B-727-200 airplanes equipped with quiet nacelles plus double wall fan duct treatment. However, certain B-727-200 airplanes may have been voluntarily brought into compliance with Part 36 prior to January 1, 1977. Many of these airplanes may have only the double wall fan duct treatment installed and require both the maximum use of tradeoffs and reduced operating weights to meet the Stage 2 noise requirements. Tradeoffs are not permitted for showing compliance after January 1, 1977. Section 21.41 states that each type certificate includes the operating limitations, thus most type certificate holders are reluctant to amend the type certificate and instead accept reduced operating capability to use the for less costly acoustical hardware. The FAA strongly encourages those operators to

voluntarily install quiet nacelles on these airplanes and thereby assure standardization of installed acoustical hardware on B-727-200 airplanes and to provide maximum noise reduction to near airport neighbors. For those airplanes which do not have the quiet nacelles installed, this amendment uses Code "C" to the Table for identifying *only* those specific B-727-200 airplanes for which compliance was shown before January 1, 1977, by installation of the double wall fan duct treatment (without quiet nacelles) and which have an amended type certificate specifying the appropriately reduced maximum operating weights.

The ATA also correctly noted that the proposed Table lacked a code for identifying reengined B-707 and DC-8 airplanes. Accordingly, this amendment provides appropriate codes for these airplanes which will be brought into compliance with Stage 3 noise levels by the installation of high by-pass ratio turbojet engines equipped with quiet nacelles under an appropriately changed, or new, type certificate. The association suggested that a code entry should be provided for DC-8 and B-707 airplanes which have been retired from U.S. domestic service without reengining or replacement since January 24, 1977, the effective date of Subpart E of Part 91. The FAA agrees. The definition of the RET code in this amendment has been clarified and expanded to read: "For DC-8 and B-707 airplanes which were retired from service in the United States without replacement between January 24, 1977, and January 1, 1985." The FAA feels that the greatest contribution an operator can make to aircraft noise reduction is the early retirement of the older, noisier four-engine turbojet airplanes. The FAA is gratified that reengining with high by-pass ratio engines is an option being followed by several operators in meeting the Part 91, Subpart E requirements. However, the FAA may not approve, without compelling justification, any replacement plan which delays the retirement of a large portion of an operator's DC-8 or B-707 fleet until 1983 or 1984. With respect to bringing B-707's into compliance, the FAA is concerned about the evident lack of commitment by any operator to reengine or retrofit any portion of that fleet. This lack of interest in utilizing acoustical technology developed and proven with Federal funds necessarily forces the FAA to carefully analyze retirement plans covering B-707 airplanes. This amendment also adds to the Table a Code "I" for the BAC-111-400 which is used as a business jet in

the United States. The British Aircraft Corporation is currently developing a hushkit for this airplane and the technology can be added to the Table by a minor amendment when the equipment is certificated. Likewise, the Table will be expanded for additional technology that may be developed and certificated.

The ATA commented that the proposed requirements concerning spare shipsets of acoustical components for engines and nacelles were unnecessary for FAA purposes. The FAA disagrees. However, § 91.308(c)(4)(xiii) has been revised and clarified to require each operator to report the number of spare shipsets of acoustical components available on demand for continuous compliance of these airplanes. Once a noncomplying airplane is brought into compliance, it should be maintained in continuous compliance. Thus, this amendment requires each operator to certify the plan, any change in plan, and the status or status change of each airplane in the operator's fleet. Replacement engines and nacelles must be equipped with full acoustical components so that complying airplanes are maintained in full compliance and a reasonable number of spare shipsets of acoustical hardware is necessary to ensure continued compliance.

The ATA contended that it was impractical to plan when a specific airplane would be brought into compliance, retired, or replaced. The FAA disagrees. While the notice mentioned "the scheduled date," the FAA did not intend to require the operator to specify the precise day on which each airplane would be brought into compliance. However, based on the vast experience gained by Part 121 and 135 operators in managing their continuous airworthiness inspection and maintenance programs, it appears that specifying the month and year in which each noncomplying airplane is scheduled to be brought into compliance is not impractical or unduly burdensome. Thus, the amendment requires "the month and year" to be identified in the compliance plan as to when an action will be taken on each airplane. As previously discussed, if a change in the plan or its implementation is necessary, it may be reflected in a revised plan. The Table includes the codes for identifying certificated acoustical technology applied to specific airplane types and models. In order to identify for compliance status and planning purposes other strategies or methods that the operator has used, or contemplates using, in achieving compliance with Part 36 noise limits, the

amendment includes a Code "OTH" which may be used with an addendum to the plan explaining in detail that "other" strategy or method for achieving compliance. Note that in reporting the status of compliance for an airplane using Code "OTH" the addendum should include reference to the type certification data and date under which compliance was shown.

The ATA commented that only two reengining options were being covered with respect to certain series of the DC-8 and B-707 airplane types. Section 91.305(c) of this amendment recognizes these two specific reengining options as replacement airplanes. However, while not proven to exist, the FAA could certificate other design modifications under Part 36 to achieve the same Stage 3 noise levels. All other types of turbojet powered airplanes currently being produced in the United States are already required to meet the Stage 2 or Stage 3 noise level limits of FAR Part 36, as required for the issuance of a standard airworthiness certificate.

The ATA suggested that updates of compliance plans should be required no more frequently than biannually. The FAA disagrees. In light of the significant public, Congressional, and other government interest and the need to monitor compliance status and planning over the next few years, more frequent reports are necessary. However, the FAA has reviewed the proposal in an effort to limit the number of required submissions and to reduce the burden on the Parts 121 and 135 operators. The FAA has decided not to adopt the proposed requirement for submitting a compliance plan six months before each phased compliance date since, when the compliance status of the prescribed percent of the operator's fleet changes, a revised plan must be submitted and, thus, the six months plan is not needed. Section 91.308(b)(2) requires the submittal of a revised plan thirty days after any change in the operator's fleet or compliance planning decisions that has a separate or cumulative effect on 10 percent or more of the airplanes in either class of airplane types covered by § 91.305(b). This is a slight relaxation from the proposed "5 percent" change as the basis for submitting a revised plan. In addition, the proposed requirement solely for Parts 91 and 123 operators to submit an updated plan annually on the anniversary of the date for submitting the original compliance plan is not being adopted, because in the absence of interim compliance dates there is less need for progress reports on compliance status and planning. However, § 91.308(b)(3), as adopted, requires the

submission of compliance plans thirty days after each compliance date and annually thereafter through 1985. This is a significant relaxation from the proposed requirement to submit a compliance plan on an annual basis to report continuous compliance. Notwithstanding the 1985 cutoff date for submitting compliance plans, the FAA will thereafter continue to monitor the fleet status and require continued compliance with Subpart E.

The schedule for submissions under § 91.308(b) will become effective on the date a notice is published in the Federal Register that the requirements of § 91.308 have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective and Compliance Dates

After considering the objectives and effects of this amendment, the FAA concludes that it should be made effective upon publication in the Federal Register. The amendment of § 91.305 expands the class of airplanes which may be "replacement airplanes" under the regulation. Thus, it is a substantive rule that relieves a restriction and may be made effective in less than 30 days after its publication. The amendment of § 91.301 is editorial in nature and the amendment adding a new § 91.308, to require submission of operator compliance plans 90 days after a subsequent notice is published, provides a compliance date which exceeds the required 30 day notice of regulatory requirements. Accordingly, I find that good cause exists for making this amendment to Subpart E of Part 91 effective upon its publication in the Federal Register.

Adoption of Amendment

Accordingly, Subpart E of Part 91 of the Code of Federal Regulations (14 CFR Part 91) is amended, effective December 20, 1979, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. By amending paragraph (a)(1) of § 91.301 to read as follows:

§ 91.301 Applicability; relation to Part 36.

(a) * * *

(1) Sections 91.303, 91.305, 91.307, and 91.308 apply to U.S. registered civil subsonic turbojet airplanes with maximum weights of more than 75,000 pounds and having standard airworthiness certificates. Those sections apply to operations under this part and under Parts 121, 123, and 135 of this chapter, but do not apply to

operations under Part 129 of this chapter.

2. By amending paragraph (a) and the last sentence in paragraph (c) of § 91.305 to read as follows:

§ 91.305 Phased compliance under Parts 121 and 135; subsonic airplanes.

(a) Except as provided under § 91.307, each person operating subsonic airplanes under Parts 121 or 135 of this chapter shall comply with this section with respect to those subsonic airplanes covered by this subpart.

(c) * * * For purposes of this paragraph, replacement airplanes are airplanes which have been shown to comply with Part 36 prior to the issuance of an original standard airworthiness certificate or which have been reengined, or otherwise modified, and shown to comply with Part 36 Stage 3 noise level requirements.

3. By adding a new § 91.308 to read as follows:

§ 91.308 Compliance plans and status.

(a) Each operator of a civil subsonic airplane covered by this subpart shall submit to the FAA, Director of the Office of Environment and Energy, in accordance with this section, the operator's current compliance status and plan for achieving and maintaining compliance with the applicable noise level requirements of this subpart. If appropriate, an operator may substitute for the required plan a notice, certified as true (under penalty of 18 U.S.C. 1001) by that operator, that no change in the plan or status of any airplane affected by the plan has occurred since the date of the plan most recently submitted under this section.

(b) Each compliance plan, including any revised plans, must contain the information specified under paragraph (c) of this section for each airplane covered by this section that is operated by the operator. Unless otherwise approved by the Administrator, compliance plans must provide the required plan and status information as it exists on the date 30 days before the date specified for submission of the plan. Plans must be certified by the operator as true and complete (under penalty of 18 U.S.C. 1001) and be submitted for each airplane covered by this section on or before the following dates—

(1) [Insert date—certain 90 days after a notice of approval of the requirements of § 91.308 by the Office of Management and Budget is published by the FAA in the Federal Register] or 90 days after initially commencing operation of

airplanes covered by this section, whichever is later, and thereafter—

(2) Thirty days after any change in the operator's fleet or compliance planning decisions that has a separate or cumulative effect on 10 percent or more of the airplanes in either class of airplane types covered by § 91.305(b); and

(3) Thirty days after each compliance date applicable to that airplane type under this subpart and annually thereafter through 1985 on the anniversary of that submission date, to show continuous compliance with this subpart.

(c) Each compliance plan submitted under this section must identify the operator and include information regarding the compliance plan and status for each airplane covered by the plan as follows:

(1) Name and address of the airplane operator.

(2) Name and telephone number of the person designated by the operator to be responsible for the preparation of the compliance plan and its submission.

(3) Total number of airplanes covered by this section in each of the following classes:

(i) Airplane powered by four turbojet engines with no bypass ratio or with a bypass ratio less than two.

(ii) All other airplanes.

(4) For each airplane covered by this section—

(i) Aircraft type and model;

(ii) Aircraft registration number;

(iii) Aircraft manufacturer serial number;

(iv) Aircraft power plant make and model;

(v) Aircraft year of manufacture;

(vi) Whether Part 36 noise level compliance has been shown: Yes/No;

(vii) Whether Part 91, Subpart E, operating noise limit compliance has been shown: Yes/No;

(viii) The appropriate code prescribed under paragraph (c)(5) of this section which indicates the acoustical technology installed, or to be installed, on the airplane;

(ix) For airplanes on which acoustical technology has been or will be applied, following the appropriate code entry, the actual or scheduled month and year of installation on the airplane;

(x) For DC-8 and B-707 airplanes which have been or will be retired from service in the United States without replacement between January 24, 1977, and January 1, 1985, following the appropriate code prescribed under paragraph (c)(5) of this section followed by the actual or scheduled month and year of retirement of the airplane from service;

(xi) For airplanes covered by an approved replacement plan under § 91.305(c) of this subpart, the appropriate code prescribed under paragraph (c)(5) of this section followed by the scheduled month and year for replacement of the airplane;

(xii) For airplanes designated as "engaged in foreign commerce" in accordance with an approved method of apportionment under § 91.307 of this subpart, the appropriate code prescribed under paragraph (c)(5) of this section;

(xiii) For all airplanes covered by this section, the number of spare shipsets of acoustical components needed for continuous compliance and the number available on demand to the operator in support of those airplanes; and

(xiv) For airplanes for which none of the other codes prescribed under paragraph (c)(5) of this section describes either the technology applied, or to be applied to the airplane in accordance with the certification requirements under Parts 21 and 36 of this chapter, or the compliance strategy or methodology, following the code "OTH" enter the date of any certificate action and attach an addendum to the plan explaining the nature and extent of the certificated technology, strategy, or methodology employed, together with reference to the type certificate documentation.

(5) Table of Acoustical Technology/Strategy Codes

| Code | Airplane type/model | Certificated technology |
|------|--|--|
| A | B-707-120B B-707-320B/C B-720B | Quiet nacelles + 1-ring. |
| B | B-727-100 | Double wall fan duct treatment. |
| C | B-727-200 | Double wall fan duct treatment (pre-January 1977 installations and amended type certificate). |
| D | B-727-200 B-737-100 B-737-200 | Quiet nacelles + double wall fan duct treatment. |
| E | B-747-100 ¹ B-747-200 ¹ | Fixed lip inlets + sound absorbing material treatment. |
| F | DC-8 | Nex extended inlet and buffet with treatment + fan duct treatment areas. |
| G | DC-9 | P-36 sound absorbing material treatment kit. |
| H | BAC-111-200 | Silencer kit (BAC acoustic report 522). |
| I | BAC-111-400 | (To be identified later if certificated.) |
| J | B-707 DC-8 | Reengined with high bypass ratio turbojet engines + quiet nacelles (if certificated under stage 3 noise level requirements). |

¹Pre-December 1971.

REP—For airplanes covered by an approved replacement plan under § 91.305(c) of this subpart.

EFC—For airplanes designated as "engaged in foreign commerce" in accordance with

an approved method of apportionment under § 91.307 of this subpart.

RET—For DC-8 and B-707 airplanes retired from service in the United States without replacement between January 24, 1977, and January 1, 1985.

OTH—For airplanes for which no other prescribed code describes either the certificated technology applied, or to be applied to the airplane, or the compliance strategy or methodology. (An addendum must explain the nature and extent of technology, strategy or methodology and reference the type certificate documentation.

(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)); Executive Order 11514, March 5, 1970; and 14 CFR 11.49.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policy 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 December 13, 1979.

Langhorne Bond,
Administrator.

[FR Doc. 79-38797 Filed 12-19-79; 8:45 am]

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14 CFR Part 91

[Docket Nos. 18955 & 18924; Amdt. No. 91-161A]

**General Operating and Flight Rules,
Aircraft Operating Noise Limits;
Compliance Plans and Expanded
Definition of "Replacement Airplanes"**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule: Notice of compliance
dates.

SUMMARY: On December 20, 1979, the FAA published an amendment to its aircraft operating noise limits rule to require operators of turbojet airplanes covered by the rule to submit their respective plans for achieving timely and continuing compliance with the applicable noise limits (Amdt. 91-161; 44 FR 75558). The amendment established dates on which compliance plans and updates must be submitted. It called for the initial compliance plan to be submitted 90 days after notice is published in the Federal Register that the reporting requirements of new § 91.308 have been approved by the Office of Management and Budget (OMB). On December 31, 1979, OMB approved those provisions. Accordingly, this document announces that approval and the regulatory action contemplated by Amendment 91-116 to begin the running of the 90-day period before the initial compliance plans are due. In accordance with the provisions of § 91.308(b), initial compliance plans must be submitted on or before May 1, 1980, based on operator plans and airplane compliance status as of April 1, 1980 (30 days before the date for submission of the plan).

DATES: Effective date—January 31, 1980.
Initial compliance plan due—May 1, 1980.

ADDRESSES: Submit compliance plans to: Director, Office of Environment and Energy (AEE-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Program Management Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION: This amendment of § 91.308 is editorial in nature to provide the date-certain in the rule that is prescribed by the text of the bracketed material and is based on the proposal contained in Notice No. 79-9 (44 FR 24778; April 26, 1979). It also corrects two minor editorial errors in the text. Accordingly, I find that good cause exists for making this amendment effective upon its publication in the Federal Register.

Adoption of the Amendment

Accordingly, § 91.308 of Part 91 of the Federal Aviation Regulations (14 CFR Part 91.308) is amended, effective January 31, 1980, as follows:

§ 91.308 [Amended].

1. By amending paragraph (b)(1) by deleting the brackets and bracketed words and substituting for them the words "May 1, 1980."

2. By amending paragraph (c)(3)(x), after the words "January 1, 1985," by deleting the word "following."

3. By amending paragraph (c)(5), under the "Certificated technology" column of the table for Code "F," by deleting the word "Nex" and substituting for it the word "New."

(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)); Executive Order 11514, March 5, 1970.)

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 final 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 January 25, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-3078 Filed 1-30-80; 9:45 am]

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