§ 91.863 Transfers of Stage 2 airplanes with base level.

(a) Stage 2 airplanes may be transferred with or without the corresponding amount of base level. Base level may not be transferred without the corresponding number of Stage 2 airplanes.

(b) No portion of a U.S. operator’s base level established under § 91.861(a) may be used for operations by a foreign air carrier. No portion of a foreign air carrier’s base level established under § 91.861(b) may be used for operations by a U.S. operator.

(c) Whenever a transfer of Stage 2 airplanes with base level occurs, the transferring and acquiring parties shall, within 10 days, jointly submit written notification of the transfer to the FAA, Office of Environment and Energy. Such notification shall state:

1. The names of the transferring and acquiring parties;
2. The name, address, and telephone number of the individual responsible for submitting the notification on behalf of the transferring and acquiring parties;
3. The total number of Stage 2 airplanes transferred, listed by airplane type, model, series, and serial number;
4. The corresponding amount of base level transferred and whether it is U.S. operator or foreign air carrier base level; and
5. The effective date of the transaction.

(d) If, taken as a whole, a transaction or series of transactions made pursuant to this section does not produce an increase or decrease in the number of Stage 2 airplanes for either the acquiring or transferring operator, such transaction or series of transactions may not be used to establish compliance with the requirements of § 91.865.

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§ 91.865 Phased compliance for operators with base level.

Except as provided in paragraph (a) of this section, each operator that operates an airplane under part 91, 121, 125, 129, or 135 of this chapter, regardless of the national registry of the airplane, shall comply with paragraph (b) or (d) of this section at each interim compliance date with regard to its subsonic airplane fleet covered by § 91.801(c) of this subpart.

(a) This section does not apply to new entrants covered by § 91.867 or to foreign operators not engaged in foreign air commerce.

(b) Each operator that chooses to comply with this paragraph pursuant to any interim compliance requirement shall reduce the number of Stage 2 airplanes it operates that are eligible for operation in the contiguous United States to a maximum of:

1. After December 31, 1994, 75 percent of the base level held by the operator;
2. After December 31, 1996, 50 percent of the base level held by the operator;
3. After December 31, 1998, 25 percent of the base level held by the operator.

(c) Except as provided under § 91.871, the number of Stage 2 airplanes that must be reduced at each compliance date contained in paragraph (b) of this section shall be determined by reference to the amount of base level held by the operator on that compliance date, as calculated under § 91.861.

(d) Each operator that chooses to comply with this paragraph pursuant to any interim compliance requirement shall operate a fleet that consists of:

1. After December 31, 1994, not less than 55 percent Stage 3 airplanes;
2. After December 31, 1996, not less than 65 percent Stage 3 airplanes;
3. After December 31, 1998, not less than 75 percent Stage 3 airplanes.
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§ 91.871 Waivers from interim compliance requirements.

(a) Any U.S. operator or foreign air carrier subject to the requirements of §91.865 or §91.867 of this subpart may request a waiver from any individual compliance requirement.

(b) Applications must be filed with the Secretary of Transportation at least 120 days prior to the compliance date from which the waiver is requested.

(c) Applicants must show that a grant of waiver would be in the public interest, and must include in its application its plans and activities for modifying its fleet, including evidence of good faith efforts to comply with the requirements of §91.865 or §91.867. The application should contain all information the applicant considers relevant, including, as appropriate, the following:

(1) The applicant’s balance sheet and cash flow positions;

(2) The composition of the applicant’s current fleet; and

(3) The applicant’s delivery position with respect to new airplanes or noise-abatement equipment.

(d) Waivers will be granted only upon a showing by the applicant that compliance with the requirements of §91.865 or §91.867 at a particular interim compliance date is financially onerous,