IFR operations concurrent with publication of the SIAP.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1. of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet Above the Surface of the Earth.

* * * * *

ASO GA E5 Hampton, GA [New]

Clayton County—Tara Field, GA
(Lat. 33°23′21″ N, long. 84°19′57″ W)

That airspace extending upward from 700 feet above the surface within a 6.8 mile radius of Clayton County-Tara Field; excluding that airspace within the Atlanta, GA, Peachtree City, GA, and Griffin, GA Class E airspace areas.

* * * * *

Issued in College Park, Georgia, on March 1, 1995.

Walter E. Denley,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–6277 Filed 3–13–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 91

[Docket No. 28134]

Policy on Use of Interchange Agreements for Noise Compliance

AGENCY: Federal Aviation Administration, DOT.

ACTION: Policy statement.

SUMMARY: This document sets forth a statement of Federal Aviation Administration (FAA) policy concerning the use of airplane sharing agreements to accomplish compliance with the Stage 3 noise transition regulations. As a result of its experience during the first interim compliance date, the FAA has become aware of a noise compliance concern involving such agreements. This policy statement is intended to provide operators that participate in airplane sharing agreements with notice and guidance on how the FAA will view such agreements for compliance with the Stage 3 transition regulations.

DATES: This policy is effective on March 14, 1995.

Comments concerning this policy must be received on or before September 11, 1995.

ADDRESSES: Send comments on this notice to: Federal Aviation Administration (FAA), Office of the Chief Counsel, Attn: Rules Docket, AGC–200, Docket No. 28134, 800 Independence Avenue SW., Washington, DC 20591.

Comments may be examined or delivered in person at the above address in room 916G, weekdays between 8:30 a.m. and 5 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William W. Albee, Policy and Regulatory Division (AEE–300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3553, facsimile (202) 267–5594.

SUPPLEMENTARY INFORMATION: Sections 91.865 and 91.867 of 14 CFR each required that as of December 31, 1994, an operator of Stage 2 airplanes either reduce the number of Stage 2 airplanes it operates by 25% from its base level, achieve a fleet mix of airplanes that is 55% Stage 3 airplanes, or in the case of a new entrant, achieve a fleet mix that is 25% Stage 3 airplanes. These same regulations require that, after the next interim compliance date, December 31, 1996, each operator must either reduce the number of Stage 2 airplanes it operates by 50% from its base level or achieve a fleet mix that is 65% Stage 3 airplanes (or, 50% for new entrants). The FAA's experience with the first interim compliance date has raised a serious concern involving airplane interchange agreements and other arrangements that result in an individual airplane being enumerated on the operations specifications of more than one operator. To ensure that the objectives of the 1990 Airport Noise and Capacity Act and the implementing regulations are not compromised during the interim compliance period, to ensure that the benefits are fully realized, and to prevent foreseeable future difficulties in compliance, the FAA is formally stating its policy for the manner in which Stage 3 airplanes are ''counted'' for compliance purposes.

Recent analysis of operators' compliance reports for 1994, which are required under 14 CFR 91.875, has revealed that some operators appear to have entered into Stage 3 airplane sharing agreements solely or primarily for the purpose of achieving compliance with the first interim compliance deadline of the Stage 3 transition rules, December 31, 1994. These airplane sharing agreements take several forms, including formal interchange agreements between operators and instances of two or more operators leasing the same airplane from a lessor. This results in the same Stage 3 airplane being counted for compliance by two or more operators, depending on the sharing arrangement. The FAA views this result to directly contradict the intent and objectives the Airport Noise and Capacity Act and its implementing regulations.

Under such arrangements, a single Stage 3 airplane could be used to support the presence of an almost limitless number of Stage 2 airplanes. Allowing a proliferation of such sharing arrangements for the purpose of noise rule compliance can be expected to result in the delay of Stage 2 airplane retirement or modification by the participating operators. Such delays not only reduce the anticipated benefits of the Congressionally mandated interim compliance period, but have the more insidious effect of operators further delaying the business and financial decisions and actions necessary to achieve full compliance by 1999. If these paper-only compliance situations

are allowed to continue, the FAA foresees that the underlying delays and failures to plan and implement real compliance may easily result in an unacceptable level of actual compliance and a large number of waiver applications based on arguments of financial hardship, and airplane and hushkit unavailability as participating operators are forced into complete compliance at the last minute.

Accordingly, the FAA is formally notifying operators of its policy that an individual Stage 3 airplane may be counted only in the fleet of one operator for purposes of compliance with the Stage 3 transition rules, regardless of the number of operators participating in the use of the airplane. This single counting does not affect the actual use of airplanes under interchange agreements; they may simply only be counted in the fleet of one of the participating operators for noise compliance purposes.

Policy Statement

For the purpose of compliance with §§ 91.865 or 91.867, the FAA will not count an individual Stage 3 airplane in the fleet of more than one operator.

This policy statement does not effect any operator's compliance with the December 31, 1994, compliance date. Thus, if an operator used shared airplanes to achieve compliance in 1994, that compliance is considered valid until December 31, 1996.

After the effective date of this policy, however, an operator may not use any type of airplane sharing agreement, regardless of the date of the agreement, to increase the number of Stage 2 airplanes it operates. As an example, a new entrant's fleet consists of three Stage 2 airplanes, and two Stage 3 airplanes that are also on the operations specifications of another operator. For purposes of the December 31, 1994, compliance date, that new entrant will be considered in compliance. However, that new entrant operator may *not* use the presence of the two shared Stage 3 airplanes to support the addition of three more Stage 2 airplanes to its fleet after the date of this policy statement, even though, with the addition, it would ''remain'' in compliance with § 91.867 by maintaining a fleet that is 25% Stage 3 airplanes. The FAA will not allow the presence of ''shared'' Stage 3 airplanes act as support for additional Stage 3 airplanes after the effective date of this policy.

The above example presumes that the new entrant attempting to add Stage 2 airplanes is not the operator that is claiming the Stage 3 airplane as its own. If the FAA finds a Stage 3 airplane that is reported in the fleet of more than one operator, the FAA will not count it in the fleet of any of the reporting operators for noise compliance purposes until the airplane is declared by one of the operators as belonging in its fleet alone. The FAA will not mitigate disputes between operators involved in any airplane sharing agreement. The FAA presumes that the operators involved in a shared airplane agreement will reach their own agreement on which operator gets to count the airplane for compliance purposes. While the FAA anticipates that in most cases the reporting operator will be the owner of lessor under an interchange agreement, any agreement between the sharing operators that results in one operator counting the airplanes is acceptable to the FAA.

Most importantly, for purposes of the December 31, 1996, interim compliance deadline, no shared airplanes will be allowed to count in the fleet of more than one operator, regardless of the date of the sharing agreement, and regardless of whether the shared arrangement was found valid for compliance with the 1994 compliance date. Thus, operators that achieved compliance with the 1994 compliance date by means of shared Stage 3 airplanes are under notice that the continuation of the same arrangement or any new arrangement will not support compliance in with the December 31, 1996, requirement.

The FAA is formally publishing this policy at this time to give all affected operators the maximum amount of time to achieve compliance with the December 31, 1996 compliance date without the use of shared Stage 3 airplanes. As stated previously, the FAA has only very recently become aware of these arrangements and their use for compliance as the required reports for 1994 have been filed and analyzed, and it is only recently that the FAA has determined the serious negative consequences of allowing such practices to continue. However, the FAA determined that, in the interest of fairness and the lack of a formal written policy before this date, such agreements that were used to comply with the 1994 compliance date would not be disallowed retroactively. This policy statement is intended to prevent the further use of such agreements for noise compliance manipulation and preclude the proliferation of such agreements as the perceived ''benefit'' is realized.

Shared Stage 2 Airplanes

The FAA is also aware that there are existing sharing agreements for Stage 2 airplanes that result in Stage 2 airplanes being listed on the operations specifications of more than one operator. To further the goals of the ANCA and its implementing regulations, the FAA will continue to count a Stage 2 airplane as part of the fleet of each of the operators sharing it. This is the method used in the compliance calculations for the 1994 compliance date, and will not affect the actual use of any such shared Stage 2 airplane by the participating operators.

Further, if a shared Stage 2 airplane was used to establish base level in the fleet of more than one operator by means of its presence on the operations specifications of the sharing operators during the appropriate period, the establishment of such base level is not affected. If the shared Stage 2 airplane is eliminated from one or all of the fleets of the operators participating in the sharing agreement, that removal may count for compliance purposes for all of the operators that remove it from their operations specifications.

In the event that any operator participating in the sharing of a Stage 2 airplane restricts its operations specifications to preclude the operation of that airplane into the contiguous United States. To achieve compliance, all other participating operators are also precluded from operating that airplane in the contiguous United States.

These policies concerning Stage 2 and Stage 3 airplanes apply to all operators of aircraft affected by the Stage 3 transition regulations, regardless of whether the operators are U.S. or non-U.S., and regardless of the level of formality of the agreement under which the subject airplanes are shared.

Comments concerning the effect of this policy on individual operators and their compliance with the Stage 3 transition regulations should be submitted to the docket established for this policy statement; the FAA will consider all comments received and refine the policy if warranted. Operators that have individual questions concerning the effect of this policy on their operations and compliance may submit written inquiries to the individual listed in the **FOR FURTHER INFORMATION CONTACT** paragraph above.

Issued in Washington, DC on March 9, 1995.

Paul R. Dykeman,

Acting Director of Environment and Energy.

[FR Doc. 95–6224 Filed 3–13–95; 8:45 am]

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