

this chapter, the requirements prescribed under §91.805 of this subpart apply.

(c) For each supersonic airplane operation to which requirements prescribed under this subpart did not apply before November 29, 1980, because the airplane was not operated in the United States under this part or part 121, 129, or 135 of this chapter, the requirements of §§91.819 and 91.821 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 part 121, 129, or 135 of this chapter, notwithstanding the approval, the requirements prescribed under paragraphs (a), (b), and (c) of this section continue to apply.

[Doc. No. 18334, 54 FR 34321, Aug. 18, 1989, as amended by Amdt. 91-276, 67 FR 46571, July 15, 2002]

§91.805 Final compliance: Subsonic airplanes.

Except as provided in §§91.809 and 91.811, on and after January 1, 1985, no person may operate to or from an airport in the United States any subsonic airplane covered by this subpart unless that airplane has been shown to comply with Stage 2 or Stage 3 noise levels under part 36 of this chapter.

§§91.807–91.813 [Reserved]

§91.815 Agricultural and fire fighting airplanes: Noise operating limitations.

(a) This section applies to propeller-driven, small airplanes having standard airworthiness certificates that are designed for “agricultural aircraft operations” (as defined in §137.3 of this chapter, as effective on January 1, 1966) or for dispensing fire fighting materials.

(b) If the Airplane Flight Manual, or other approved manual material information, markings, or placards for the airplane indicate that the airplane has not been shown to comply with the noise limits under part 36 of this chapter, no person may operate that airplane, except—

(1) To the extent necessary to accomplish the work activity directly associ-

ated with the purpose for which it is designed;

(2) To provide flight crewmember training in the special purpose operation for which the airplane is designed; and

(3) To conduct “nondispensing aerial work operations” in accordance with the requirements under §137.29(c) of this chapter.

§91.817 Civil aircraft sonic boom.

(a) No person may operate a civil aircraft in the United States at a true flight Mach number greater than 1 except in compliance with conditions and limitations in an authorization to exceed Mach 1 issued to the operator in accordance with §91.818.

(b) In addition, no person may operate a civil aircraft for which the maximum operating limit speed M_{MO} exceeds a Mach number of 1, to or from an airport in the United States, unless—

(1) Information available to the flight crew includes flight limitations that ensure that flights entering or leaving the United States will not cause a sonic boom to reach the surface within the United States; and

(2) The operator complies with the flight limitations prescribed in paragraph (b)(1) of this section or complies with conditions and limitations in an authorization to exceed Mach 1 issued in accordance with §91.818.

(Approved by the Office of Management and Budget under control number 2120-0005)

[Docket No. 18334, 54 FR 34321, Aug. 18, 1989, as amended by Amdt. No. 91-362, 86 FR 3792, Jan. 15, 2021]

§91.818 Special flight authorization to exceed Mach 1.

For all civil aircraft, any operation that exceeds Mach 1 may be conducted only in accordance with a special flight authorization issued to an operator in accordance with the requirements of this section.

(a) *Application.* Application for a special flight authorization to exceed Mach 1 must be made to the FAA Office of Environment and Energy for consideration by the Administrator. Each application must include:

(1) The name of the operator;

(2) The number and model(s) of the aircraft to be operated;

(3) The number of proposed flights;

(4) The date range during which the flight(s) would be conducted;

(5) The time of day the flight(s) would be conducted. Proposed night operations may require further justification for their necessity;

(6) A description of the flight area requested by the applicant, including any environmental information required to be submitted pursuant to paragraph (c) of this section;

(7) All conditions and limitations on the flight(s) that will ensure that no measurable sonic boom overpressure will reach the surface outside of the proposed flight area; and

(8) The reason(s) that operation at a speed greater than Mach 1 is necessary. A special flight authorization to exceed Mach 1 may be granted only for operations that are intended to:

(i) Show compliance with airworthiness requirements;

(ii) Determine the sonic boom characteristics of an aircraft;

(iii) Establish a means of reducing or eliminating the effects of sonic boom, including flight profiles and special features of an aircraft;

(iv) Demonstrate the conditions and limitations under which speeds in excess of Mach 1 will not cause a measurable sonic boom overpressure to reach the surface; or

(v) Measure the noise characteristics of an aircraft to demonstrate compliance with noise requirements imposed under this chapter, or to determine the limits for operation in accordance with §91.817(b).

(9) For any purpose listed in paragraph (a)(8) of this section, each applicant must indicate why its intended operation cannot be safely or properly accomplished over the ocean at a distance ensuring that no sonic boom overpressure reaches any land surface in the United States.

(b) *Operation outside a test area.* An applicant may apply for an authorization to conduct flights outside a test area under certain conditions and limitations upon a conservative showing that:

(1) Flight(s) within a test area have been conducted in accordance with an

authorization issued for the purpose specified in paragraph (a)(8)(iv) of this section;

(2) The results of the flight test(s) required by paragraph (b)(1) of this section demonstrate that a speed in excess of Mach 1 does not cause a measurable sonic boom overpressure to reach the surface; and

(3) The conditions and limitations determined by the test(s) represent all foreseeable operating conditions and are effective on all flights conducted under an authorization.

(c) *Environmental findings.* (1) No special flight authorization will be granted if the Administrator finds that such action is necessary to protect or enhance the environment.

(2) The Administrator is required to consider the potential environmental impacts resulting from the issuance of an authorization for a particular flight area pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C 4321 *et seq.*), all applicable regulations implementing NEPA, and related Executive orders and guidance. Accordingly, each applicant must provide information that sufficiently describes the potential environmental impact of any flight in excess of Mach 1, including the effect of a sonic boom reaching the surface in the proposed flight area, to enable the FAA to determine whether such impacts are significant within the meaning of NEPA.

(d) *Issuance.* An authorization to operate a civil aircraft in excess of Mach 1 may be issued only after an applicant has submitted the information described in this section and the Administrator has taken the required action regarding the environmental findings described in paragraph (c) of this section.

(e) *Duration.* (1) An authorization to exceed Mach 1 will be granted for the time the Administrator determines necessary to conduct the flights for the described purposes.

(2) An authorization to exceed Mach 1 is effective until it expires or is surrendered.

(3) An authorization to exceed Mach 1 may be terminated, suspended, or amended by the Administrator at any time the Administrator finds that such

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action is necessary to protect the environment.

(4) The holder of an authorization to exceed Mach 1 may request reconsideration of a termination, amendment, or suspension issued under paragraph (e)(3) of this section within 30 days of notice of the action. Failure to request reconsideration and provide information why the Administrator's action is not appropriate will result in permanent termination of the authorization.

(5) Findings made by and actions taken by the Administrator under this section do not affect any certificate issued under chapter 447 of Title 49 of the United States Code.

[Docket No. FAA-2019-0451; Amdt. No. 91-362, 86 FR 3792, Jan. 15, 2021]

§ 91.819 Civil supersonic airplanes that do not comply with part 36.

(a) *Applicability.* This section applies to civil supersonic airplanes that have not been shown to comply with the Stage 2 noise limits of part 36 in effect on October 13, 1977, using applicable trade-off provisions, and that are operated in the United States, after July 31, 1978.

(b) *Airport use.* Except in an emergency, the following apply to each person who operates a civil supersonic airplane to or from an airport in the United States:

(1) Regardless of whether a type design change approval is applied for under part 21 of this chapter, no person may land or take off an airplane covered by this section for which the type design is changed, after July 31, 1978, in a manner constituting an "acoustical change" under § 21.93 unless the acoustical change requirements of part 36 are complied with.

(2) No flight may be scheduled, or otherwise planned, for takeoff or landing after 10 p.m. and before 7 a.m. local time.

§ 91.821 Civil supersonic airplanes: Noise limits.

Except for Concorde airplanes having flight time before January 1, 1980, no person may operate in the United States, a civil supersonic airplane that does not comply with Stage 2 noise limits of part 36 in effect on October 13,

1977, using applicable trade-off provisions.

§§ 91.823–91.849 [Reserved]

§ 91.851 Definitions.

For the purposes of §§ 91.851 through 91.877 of this subpart:

Chapter 4 noise level means a noise level at or below the maximum noise level prescribed in Chapter 4, Paragraph 4.4, Maximum Noise Levels, of the International Civil Aviation Organization (ICAO) Annex 16, Volume I, Amendment 7, effective March 21, 2002. The Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 approved the incorporation by reference of this document, which can be obtained from the International Civil Aviation Organization (ICAO), Document Sales Unit, 999 University Street, Montreal, Quebec H3C 5H7, Canada. Also, you may obtain documents on the Internet at <http://www.ICAO.int/eshop/index.cfm>. Copies may be reviewed at the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Contiguous United States means the area encompassed by the 48 contiguous United States and the District of Columbia.

Fleet means those civil subsonic jet (turbojet) airplanes with a maximum certificated weight of more than 75,000 pounds that are listed on an operator's operations specifications as eligible for operation in the contiguous United States.

Import means a change in ownership of an airplane from a non-U.S. person to a U.S. person when the airplane is brought into the United States for operation.

Operations specifications means an enumeration of airplanes by type, model, series, and serial number operated by the operator or foreign air carrier on a given day, regardless of how