

## Federal Aviation Administration, DOT

§ 91.851

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](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

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or whether such airplanes are formally listed or designated by the operator.

*Owner* means any person that has indicia of ownership sufficient to register the airplane in the United States pursuant to part 47 of this chapter.

*New entrant* means an air carrier or foreign air carrier that, on or before November 5, 1990, did not conduct operations under part 121 or 129 of this chapter using an airplane covered by this subpart to or from any airport in the contiguous United States, but that initiates such operation after that date.

*Stage 2 noise levels* mean the requirements for Stage 2 noise levels as defined in part 36 of this chapter in effect on November 5, 1990.

*Stage 3 noise levels* mean the requirements for Stage 3 noise levels as defined in part 36 of this chapter in effect on November 5, 1990.

*Stage 4 noise level* means a noise level at or below the Stage 4 noise limit prescribed in part 36 of this chapter.

*Stage 2 airplane* means a civil subsonic jet (turbojet) airplane with a maximum certificated weight of 75,000 pounds or more that complies with Stage 2 noise levels as defined in part 36 of this chapter.

*Stage 3 airplane* means a civil subsonic jet (turbojet) airplane with a maximum certificated weight of 75,000 pounds or more that complies with Stage 3 noise levels as defined in part 36 of this chapter.

*Stage 4 airplane* means an airplane that has been shown not to exceed the Stage 4 noise limit prescribed in part 36 of this chapter. A Stage 4 airplane complies with all of the noise operating rules of this part.

*Stage 5 airplane* means an airplane that has been shown not to exceed the Stage 5 noise limit prescribed in part 36 of this chapter. A Stage 5 airplane complies with all of the noise operating rules of this part.

*Stage 5 noise level* means a noise level at or below the Stage 5 noise limit prescribed in part 36 of this chapter.

[Doc. No. 26433, 56 FR 48658, Sept. 25, 1991, as amended by Amdt. 91–252, 61 FR 66185, Dec. 16, 1996; Amdt. 91–275, 67 FR 45237, July 8, 2002; Amdt. 91–288, 70 FR 38749, July 5, 2005; 72 FR 68475, Dec. 5, 2007; Docket FAA–2015–3782, Amdt. 91–349, 82 FR 46132, Oct. 4, 2017]

## §91.853 Final compliance: Civil subsonic airplanes.

Except as provided in §91.873, after December 31, 1999, no person shall operate to or from any airport in the contiguous United States any airplane subject to §91.801(c), unless that airplane has been shown to comply with Stage 3, Stage 4, or Stage 5 noise levels.

[Docket FAA–2015–3782, Amdt. 91–349, 82 FR 46132, Oct. 4, 2017]

## §91.855 Entry and nonaddition rule.

No person may operate any airplane subject to §91.801(c) of this subpart to or from an airport in the contiguous United States unless one or more of the following apply:

(a) The airplane complies with Stage 3, Stage 4, or Stage 5 noise levels.

(b) The airplane complies with Stage 2 noise levels and was owned by a U.S. person on and since November 5, 1990. Stage 2 airplanes that meet these criteria and are leased to foreign airlines are also subject to the return provisions of paragraph (e) of this section.

(c) The airplane complies with Stage 2 noise levels, is owned by a non-U.S. person, and is the subject of a binding lease to a U.S. person effective before and on September 25, 1991. Any such airplane may be operated for the term of the lease in effect on that date, and any extensions thereof provided for in that lease.

(d) The airplane complies with Stage 2 noise levels and is operated by a foreign air carrier.

(e) The airplane complies with Stage 2 noise levels and is operated by a foreign operator other than for the purpose of foreign air commerce.

(f) The airplane complies with Stage 2 noise levels and—

(1) On November 5, 1990, was owned by:

(i) A corporation, trust, or partnership organized under the laws of the United States or any State (including individual States, territories, possessions, and the District of Columbia);

(ii) An individual who is a citizen of the United States; or

(iii) An entity owned or controlled by a corporation, trust, partnership, or individual described in paragraph (f)(1) (i) or (ii) of this section; and