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compliance date is financially onerous, physically impossible, or technologically infeasible, or that it would have an adverse effect on competition or on service to small communities.

(e) The conditions of any waiver granted under this section shall be determined by the circumstances presented in the application, but in no case may the term extend beyond the next interim compliance date.

(f) A summary of any request for a waiver under this section will be published in the FEDERAL REGISTER, and public comment will be invited. Unless the Secretary finds that circumstances require otherwise, the public comment period will be at least 14 days.

[Doc. No. 26433, 56 FR 48660, Sept. 25, 1991]

§91.873 Waivers from final compliance.

(a) A U.S. air carrier or a foreign air carrier may apply for a waiver from the prohibition contained in §91.853 of this part for its remaining Stage 2 airplanes, provided that, by July 1, 1999, at least 85 percent of the airplanes used by the carrier to provide service to or from an airport in the contiguous United States will comply with the Stage 3 noise levels.

(b) An application for the waiver described in paragraph (a) of this section must be filed with the Secretary of Transportation no later than January 1, 1999, or, in the case of a foreign air carrier, no later than April 20, 2000. Such application must include a plan with firm orders for replacing or modifying all airplanes to comply with Stage 3 noise levels at the earliest practicable time.

(c) To be eligible to apply for the waiver under this section, a new entrant U.S. air carrier must initiate service no later than January 1, 1999, and must comply fully with all provisions of this section.

(d) The Secretary may grant a waiver under this section if the Secretary finds that granting such waiver is in the public interest. In making such a finding, the Secretary shall include consideration of the effect of granting such waiver on competition in the air carrier industry and the effect on small community air service, and any other information submitted by the appli-

cant that the Secretary considers relevant.

(e) The term of any waiver granted under this section shall be determined by the circumstances presented in the application, but in no case will the waiver permit the operation of any Stage 2 airplane covered by this subchapter in the contiguous United States after December 31, 2003.

(f) A summary of any request for a waiver under this section will be published in the FEDERAL REGISTER, and public comment will be invited. Unless the secretary finds that circumstances require otherwise, the public comment period will be at least 14 days.

[Doc. No. 26433, 56 FR 48660, Sept. 25, 1991; 56 FR 51167 Oct. 10, 1991; Amdt. 91-276, 67 FR 46571, July 15, 2002]

§91.875 Annual progress reports.

(a) Each operator subject to §91.865 or §91.867 of this chapter shall submit an annual report to the FAA, Office of Environment and Energy, on the progress it has made toward complying with the requirements of that section. Such reports shall be submitted no later than 45 days after the end of a calendar year. All progress reports must provide the information through the end of the calendar year, be certified by the operator as true and complete (under penalty of 18 U.S.C. 1001), and include the following information:

(1) The name and address of the operator;

(2) The name, title, and telephone number of the person designated by the operator to be responsible for ensuring the accuracy of the information in the report;

(3) The operator's progress during the reporting period toward compliance with the requirements of §91.853, §91.865 or §91.867. For airplanes on U.S. operations specifications, each operator shall identify the airplanes by type, model, series, and serial number.

(i) Each Stage 2 airplane added or removed from operation or U.S. operations specifications (grouped separately by those airplanes acquired with and without base level);

(ii) Each Stage 2 airplane modified to Stage 3 noise levels (identifying the manufacturer and model of noise abatement retrofit equipment;

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(iii) Each Stage 3 airplane on U.S. operations specifications as of the last day of the reporting period; and

(iv) For each Stage 2 airplane transferred or acquired, the name and address of the recipient or transferor; and, if base level was transferred, the person to or from whom base level was transferred or acquired pursuant to Section 91.863 along with the effective date of each base level transaction, and the type of base level transferred or acquired.

(b) Each operator subject to § 91.865 or § 91.867 of this chapter shall submit an initial progress report covering the period from January 1, 1990, through December 31, 1991, and provide:

(1) For each operator subject to § 91.865:

(i) The date used to establish its base level pursuant to § 91.861(a); and

(ii) A list of those Stage 2 airplanes (by type, model, series and serial number) in its base level, including adjustments made pursuant to § 91.861 after the date its base level was established.

(2) For each U.S. operator:

(i) A plan to meet the compliance schedules in § 91.865 or § 91.867 and the final compliance date of § 91.853, including the schedule for delivery of replacement Stage 3 airplanes or the installation of noise abatement retrofit equipment; and

(ii) A separate list (by type, model, series, and serial number) of those airplanes included in the operator's base level, pursuant to § 91.861(a)(1) (i) and (ii), under the categories "returned" or "purchased," along with the date each was added to its operations specifications.

(c) Each operator subject to § 91.865 or § 91.867 of this chapter shall submit subsequent annual progress reports covering the calendar year preceding the report and including any changes in the information provided in paragraphs (a) and (b) of this section; including the use of any carry-forward credits pursuant to § 91.869.

(d) An operator may request, in any report, that specific planning data be considered proprietary.

(e) If an operator's actions during any reporting period cause it to achieve compliance with § 91.853, the report should include a statement to that

effect. Further progress reports are not required unless there is any change in the information reported pursuant to paragraph (a) of this section.

(f) For each U.S. operator subject to § 91.865, progress reports submitted for calendar years 1994, 1996, and 1998, shall also state how the operator achieved compliance with the requirements of that section, i.e.—

(1) By reducing the number of Stage 2 airplanes in its fleet to no more than the maximum permitted percentage of its base level under § 91.865(b), or

(2) By operating a fleet that consists of at least the minimum required percentage of Stage 3 airplanes under § 91.865(d).

(Approved by the Office of Management and Budget under control number 2120-0553)

[Doc. No. 26433, 56 FR 48660, Sept. 25, 1991; 56 FR 51168, Oct. 10, 1991, as amended by 57 FR 5977, Feb. 19, 1992]

§ 91.877 Annual reporting of Hawaiian operations.

(a) Each air carrier or foreign air carrier subject to § 91.865 or § 91.867 of this part that conducts operations between the contiguous United States and the State of Hawaii, between the State of Hawaii and any point outside of the contiguous United States, or between the islands of Hawaii in turnaround service, on or since November 5, 1990, shall include in its annual report the information described in paragraph (c) of this section.

(b) Each air carrier or foreign air carrier not subject to § 91.865 or § 91.867 of this part that conducts operations between the contiguous U.S. and the State of Hawaii, between the State of Hawaii and any point outside of the contiguous United States, or between the islands of Hawaii in turnaround service, on or since November 5, 1990, shall submit an annual report to the FAA, Office of Environment and Energy, on its compliance with the Hawaiian operations provisions of 49 U.S.C. 47528. Such reports shall be submitted no later than 45 days after the end of a calendar year. All progress reports must provide the information through the end of the calendar year, be certified by the operator as true and complete (under penalty of 18 U.S.C.