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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

Applicability of 90-Day Rule for Intermixed Airplane Engines and/or Nacelles

AGENCY: Federal Aviation Administration, DOT.

ACTION: Statement of policy.

SUMMARY: This document clarifies the continued applicability of the 90-day limit for certain changes in airplane type designs after the final compliance date requiring an all Stage 3 fleet in the contiguous United States. The Federal Aviation Administration (FAA) has received numerous inquiries regarding the use of the 90-day limit after December 31, 1999. This document provides guidance to operators that need to use that provision of the airplane type certification regulations, including the limits of its use.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Connor, Manager, Noise Division (AEE–100), Office of Environment and Energy, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8933, fax (202) 267–5594.

SUPPLEMENTARY INFORMATION:

Background

In 1980, the Air Transport Association of America (ATA) petitioned the FAA on behalf of its member operators for an exemption from 14 CFR 21.93(b), and for a corresponding rule change that would allow unlimited intermix of airplane engines and/or nacelles that do not conform to specified noise levels. On January 26, 1981, the FAA published a Notice of Proposed Rulemaking (NPRM) (46 FR 8347), proposing to amend the definition of ''acoustical change'' in the aircraft noise certification rules as it applies to turbojet engine-powered, large transport category airplanes. The NPRM proposed permitting the temporary installation and use (intermix) of airplane engines having different noise levels, provided that the affected airplane is brought back into conformance with an acoustically certificated configuration for that airplane type within 90 days of the initial change.

The final rule revising § 21.93(b)(2)(iii) was published on January 7, 1982 (47 FR 756). The regulation provided relief to operators and manufacturers without resulting in a significant noise impact by allowing the unlimited intermix of engines and/or nacelles for maintenance purposes for up to a period of 90 days without triggering the acoustical change requirement of § 21.93. The change did not affect any other applicable requirements for certification of type design or airworthiness, or for operating the affected airplanes.

The Stage 3 transition regulations contained in 14 CFR part 91 were promulgated in 1991 to implement the Airport Noise and Capacity Act of 1990. The law requires that after December 31, 1999, no person may operate to or from any airport in the contiguous United States any airplane with a maximum certificated weight of more than 75,000 pounds unless that airplane has been shown to comply with Stage 3 noise levels. The FAA issued a notice in the **Federal Register** (64 FR 51430, September 23, 1999) and has sent several letters to operators reminding them of the prohibition against the operation of Stage 2 airplanes after December 31, 1999.

Since the law places a ban on the operation of Stage 2 airplanes after December 31, 1999, several operators have inquired whether the relief provided in § 21.93(b)(2)(iii) will continue to be available, or if the State 3 transition requirements eliminate that option for airplanes operated in the contiguous United States.

Essentially, § 21.93(b)(2)(iii) allows an operator to operate a turbojet powered airplane with a mix of engines (for which compliance with the acoustical change provisions of 14 CFR part 36 have not been shown) for a period not to exceed 90 days. In a typical case, the operator of a multi-engine Stage 3 airplane would use this provision to install one Stage 2 engine while the Stage 3 engine is in repair. Another common situation occurs when a Stage 3 engine incurs a minor damage that changes its noise characteristics and can continue safe operation, but cannot be immediately repaired. Thus, the regulation refers to ''time-limited engine and/or nacelle changes.'' The rule allows the intermix without the configuration being considered an ''acoustical change'' that would otherwise invoke considerable certification requirements.

When the FAA changed the rule in 1981, it determined that these occasional changes would not have a substantial impact on overall airplane operating noise levels if the use was limited to 90 days. The first 90 days of such a configuration is not considered an acoustical change; over 90 days, an operator must demonstrate that the intermix meets the acoustical change provision of 14 CFR part 36, or it must bring the airplane into compliance with an acoustically certificated configuration for that airplane type.

The 1981 rule change also specifically noted that the 90-day allowance was intended for maintenance purposes (47 FR 758). Recently, the FAA has received information that some operators may be using this provision to maximize the size of their operating fleets—essentially, operators may not have a sufficient number of engines to maintain their entire fleets in Stage 3 configuration. To remedy the situation, operators may be trading out Stage 2 and Stage 3 engines every 90 days or so and ''invoking'' § 21.93(b)(2)(iii) to maintain their status as having Stage 3 compliant aircraft. This situation came to the attention of the FAA when operators inquired whether they would be able to continue this practice after the December 31, 1999, compliance deadline.

The FAA stresses that the § 21.93(b)(2)(iii) provision was designed to assist operators with unplanned engine damage or maintenance events. The rule was never intended to be used to demonstrate ''paper-only'' compliance with Stage 3 noise requirements on a continuing basis, either before or after the statutory final compliance date. While the FAA considered removing the 90-day allowance to prevent these ''musical engine'' activities, the agency also

realized the value of the provision for its intended purposes and the substantial workload that would be generated for both the agency and the operators if the provision were removed.

Accordingly, the FAA has determined that the 90-day period allowed by § 21.93(b)(2)(iii) will continue to be available after December 31, 1999. The affected operators are reminded that the 90-day period provision is only valid for maintenance purposes. Those airplanes using intermixed engines and/or nacelles will continue to be considered Stage 3 for compliance purposes as long as the reason for the configuration is maintenance-related. The FAA warns operators that the swapping of engines between airplanes will be closely monitored. If, for example, an engine is removed from a Stage 3 configured airplane, and replaced with an intermix engine operated under § 21.93(b)(2)(iii), careful attention will be paid by the FAA to the status of the removed engine. If the removed engine is reinstalled on a different airplane, the FAA will monitor whether any required maintenance or repair was first accomplished, as stated by the agency when the rule was adopted.

If operators are found to be abusing § 21.93(b)(2)(iii) in order to meet Stage 3 compliance requirements, operators will face enforcement action and the agency will consider removing the allowance or requiring prior approval for its use. A chronic lack of spare engines or a determination that an operator does not have sufficient engines available to operate a Stage 3 fleet at one time is not considered an acceptable reason for using § 21.93(b)(2)(iii).

Operators may use § 21.93(b)(2)(iii) to intermix engines only when maintenance must be performed on an engine and no conforming engine for the configuration is available. Engine removals that invoke § 21.93(b)(2)(iii) will be carefully monitored by the FAA.

Issued in Washington, DC on November 17, 1999.

James D. Erickson,

Director of Environment and Energy.

[FR Doc. 99–30502 Filed 11–22–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ANM–01]

Amendment of Class E Airspace, Lewiston, ID; Establishment of Class E Airspace, Grangeville, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Lewiston, ID, Class E airspace and establishes additional controlled airspace at Grangeville, ID, to accommodate the development of two new Standard Instrument Approach Procedures (SIAP) utilizing the Global Positioning System (GPS) at the Idaho County Airport, Grangeville, ID.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 99–ANM–01, 1601 Lind Avenue, SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On August 31, 1999, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by revising the Lewiston, ID, Class E airspace area and establishing additional controlled airspace at Grangeville, ID (64 FR 47449). This rule provides the additional airspace necessary to encompass the new SIAP's to the Idaho County Airport, Grangeville, ID. This amendment provides additional airspace at Lewiston, ID, to encompass newly established waypoints in order to satisfy current criteria standards associated with SIAP holding patterns. This rule also allows for the establishment of airspace at Grangeville, ID, providing controlled airspace for the final approach phase of flight for the newly established SIAP's. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Lewiston, ID, and establishes Class E airspace at Grangeville, ID by providing the additional airspace necessary to fully contain new flight procedures at Idaho County Airport. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Idaho County Airport and between the terminal and en route transition stages.

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—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp. p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows: