

action under this section” are substituted for “Action for the resolution of such a case shall be brought solely in” for clarity and consistency. The words “Court of Federal Claims” are substituted for “Claims Court” to reflect the change of name of the Court by section 902(b) of the Federal Courts Administration Act of 1992 (Public Law 102-572, 106 Stat. 4516).

**§ 47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels**

(a) PROHIBITION.—Except as provided in subsection (b) or (f) of this section and section 47530 of this title, a person may operate after December 31, 1999, a civil subsonic turbojet (for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator) with a maximum weight of more than 75,000 pounds to or from an airport in the United States only if the Secretary of Transportation finds that the aircraft complies with the stage 3 noise levels.

(b) WAIVERS.—(1) If, not later than July 1, 1999, at least 85 percent of the aircraft used by an air carrier or foreign air carrier to provide air transportation comply with the stage 3 noise levels, the carrier may apply for a waiver of subsection (a) of this section for the remaining aircraft used by the carrier to provide air transportation. The application must be filed with the Secretary not later than January 1, 1999, or, in the case of a foreign air carrier, the 15th day following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century and must include a plan with firm orders for making all aircraft used by the carrier to provide air transportation comply with the noise levels not later than December 31, 2003.

(2) The Secretary may grant a waiver under this subsection if the Secretary finds it would be in the public interest. In making the finding, the Secretary shall consider the effect of granting the waiver on competition in the air carrier industry and on small community air service.

(3) A waiver granted under this subsection may not permit the operation of stage 2 aircraft in the United States after December 31, 2003.

(c) SCHEDULE FOR PHASED-IN COMPLIANCE.—The Secretary shall establish by regulation a schedule for phased-in compliance with subsection (a) of this section. The phase-in period shall begin on November 5, 1990, and end before December 31, 1999. The regulations shall establish interim compliance dates. The schedule for phased-in compliance shall be based on—

(1) a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(A) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(B) the impact of competition in the airline and air cargo industries;

(C) the impact on nonhub and small community air service; and

(D) the impact on new entry into the airline industry; and

(2) an analysis of the impact of aircraft noise on individuals residing near airports.

(d) ANNUAL REPORT.—Beginning with calendar year 1992—

(1) each air carrier shall submit to the Secretary an annual report on the progress the carrier is making toward complying with the requirements of this section and regulations prescribed under this section; and

(2) the Secretary shall submit to Congress an annual report on the progress being made toward that compliance.

(e) HAWAIIAN OPERATIONS.—(1) In this subsection, “turnaround service” means a flight between places only in Hawaii.

(2)(A) An air carrier or foreign air carrier may not operate in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, a greater number of stage 2 aircraft with a maximum weight of more than 75,000 pounds than it operated in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, on November 5, 1990.

(B) An air carrier that provided turnaround service in Hawaii on November 5, 1990, using stage 2 aircraft with a maximum weight of more than 75,000 pounds may include in the number of aircraft authorized under subparagraph (A) of this paragraph all stage 2 aircraft with a maximum weight of more than 75,000 pounds that were owned or leased by that carrier on that date, whether or not the aircraft were operated by the carrier on that date.

(3) An air carrier may provide turnaround service in Hawaii using stage 2 aircraft with a maximum weight of more than 75,000 pounds only if the carrier provided the service on November 5, 1990.

(4) An air carrier operating stage 2 aircraft under this subsection may transport stage 2 aircraft to or from the 48 contiguous States on a nonrevenue basis in order—

(A) to perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

(B) conduct operations within the limitations of paragraph (2)(B).

(f) AIRCRAFT MODIFICATION, DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING.—

(1) IN GENERAL.—The Secretary shall permit a person to operate after December 31, 1999, a stage 2 aircraft in nonrevenue service through the airspace of the United States or to or from an airport in the contiguous 48 States in order to—

(A) sell, lease, or use the aircraft outside the contiguous 48 States;

(B) scrap the aircraft;

(C) obtain modifications to the aircraft to meet stage 3 noise levels;

(D) perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;

(E) deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

(F) prepare or park or store the aircraft in anticipation of any of the activities described in subparagraphs (A) through (E); or

(G) divert the aircraft to an alternative airport in the contiguous 48 States on ac-

count of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in subparagraphs (A) through (F).

(2) PROCEDURE TO BE PUBLISHED.—Not later than 30 days after the date of the enactment of this subsection, the Secretary shall establish and publish a procedure to implement paragraph (1) through the use of categorical waivers, ferry permits, or other means.

(g) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on November 1, 1999.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291; Pub. L. 106–113, div. B, §1000(a)(5) [title II, §231(a), (b)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–300, 1501A–301; Pub. L. 106–181, title VII, §721(a)–(c)(1), (d), Apr. 5, 2000, 114 Stat. 164, 165.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47528(a) .....	49 App.:2157(a).	Nov. 5, 1990, Pub. L. 101–508, §9308(a)–(c), (g), 104 Stat. 1388–382, 1388–383.
47528(b) .....	49 App.:2157(b).	
47528(c) .....	49 App.:2157(c).	
47528(d) .....	49 App.:2157(g).	
47528(e) .....	49 App.:2157(i).	Nov. 5, 1990, Pub. L. 101–508, 104 Stat. 1388–382, §9308(i); added Oct. 28, 1991, Pub. L. 102–143, §349(b), 105 Stat. 949.

In subsection (e), the words “the State of” are omitted as surplus. The words “place” and “places” are substituted for “point” and “points” for consistency in title the revised title.

In subsection (e)(1), the words “the operation of” are omitted as surplus. The words “places only in Hawaii” are substituted for “two or more points, all of which are within the State of Hawaii” to eliminate unnecessary words.

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of the enactment of this subsection, referred to in subsec. (f)(2), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2000—Pub. L. 106–181, §721(a), repealed Pub. L. 106–113, §1000(a)(5) [title II, §231]. See 1999 Amendment notes and Construction of 2000 Amendment note below.

Subsec. (a). Pub. L. 106–181, §721(b)(1), (c)(1), substituted “subsection (b) or (f)” for “subsection (b)” and inserted “(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)” after “civil subsonic turbojet”.

Subsec. (b)(1). Pub. L. 106–181, §721(d), in first sentence, inserted “or foreign air carrier” after “air carrier”, and, in last sentence, inserted “or, in the case of a foreign air carrier, the 15th day following the date of the enactment of the Wendell H. Ford Aviation Invest-

ment and Reform Act for the 21st Century” after “January 1, 1999.”.

Subsec. (e)(4). Pub. L. 106–181, §721(b)(2), added par. (4).

Subsecs. (f), (g). Pub. L. 106–181, §721(b)(3), added subsecs. (f) and (g).

1999—Pub. L. 106–113, §1000(a)(5) [title II, §231(a)], which directed the amendment of section 47528 by substituting “subsection (b) or (f)” for “subsection (b)” in subsec. (a), adding a par. (4) to subsec. (e), and adding subsec. (f) at the end, without specifying the Code title to be amended, was repealed by Pub. L. 106–181, §721(a). See Construction of 2000 Amendment note below.

Subsec. (a). Pub. L. 106–113, §1000(a)(5) [title II, §231(b)(1)], which inserted “(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)” after “civil subsonic turbojet”, was repealed by Pub. L. 106–181, §721(a). See Construction of 2000 Amendment note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

REGULATIONS

Pub. L. 106–181, title VII, §721(c)(2), Apr. 5, 2000, 114 Stat. 165, provided that: “Regulations contained in title 14, Code of Federal Regulations, that implement section 47528 of title 49, United States Code, and related provisions shall be deemed to incorporate the amendment made by paragraph (1) [amending this section] on the date of the enactment of this Act [Apr. 5, 2000].”

CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–181, title VII, §721(a), Apr. 5, 2000, 114 Stat. 164, provided that: “Section 231 of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of Public Law 106–113 [amending this section], is repealed and the provisions of law amended by such section shall be read as if such section had not been enacted into law.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (d)(2) of this section relating to the requirement that the Secretary submit an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 7th item on page 132 of House Document No. 103–7.

§ 47529. Nonaddition rule

(a) GENERAL LIMITATIONS.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may operate a civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into the United States after November 4, 1990, only if the aircraft—

- (1) complies with the stage 3 noise levels; or
- (2) was purchased by the person importing the aircraft into the United States under a legally binding contract made before November 5, 1990.

(b) EXEMPTIONS.—The Secretary of Transportation may provide an exemption from subsection (a) of this section to permit a person to obtain modifications to an aircraft to meet the stage 3 noise levels.

(c) AIRCRAFT DEEMED NOT IMPORTED.—In this section, an aircraft is deemed not to have been imported into the United States if the aircraft—