

ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on March 15, 1999.

Vanester M. Williams,
Clearance Officer, Department of
Transportation.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program Revision; Naples Municipal Airport, Naples, FL

AGENCY: Federal Aviation
Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program revision submitted by the City of Naples under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On September 3, 1998, the FAA determined that the noise exposure maps submitted by the City of Naples under part 150 were in compliance with applicable requirements. On March 2, 1999, the Administrator approved a revision to the Naples Municipal Airport noise compatibility program. The program measure in this revision was fully approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Naples Municipal Airport noise compatibility program revision is March 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812-6331, Extension 29. Documents reflecting this AFF action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program revision for

Naples Municipal Airport, effective March 2, 1999.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The AFF does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

- a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;
- b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;
- c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and
- d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by

itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an AFF decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

The City of Naples submitted to the FAA on March 6, 1998, revised noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study update conducted from October 23, 1997 through February 27, 1998. The Naples Municipal Airport revised noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 3, 1998. Notice of this determination was published in the **Federal Register**.

The Naples Municipal Airport study contains a proposed noise compatibility program revision comprised of an action designed for implementation by airport management between the date of approval and the year 2003. It was requested that FAA evaluate and approve this material as a noise compatibility program revision as described in section 104(b) of the Act. The FAA began its review of the program revision on September 3, 1998, and we required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program revision contained one (1) proposed action for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program revision, therefore, was approved by the Administrator effective March 2, 1999.

Out right approval was granted for the one (1) specific program measure. The approval action was for the following program control:

Background

In February 1997, the Naples Airport Authority (NAA) submitted to the FAA an Update to the Part 150 Noise Compatibility Program (NCP) for Naples Municipal Airport (APF). The Update consisted of 15 measures, one of which would allow operations by Stage I aircraft (weighing less than 75,000) only between the hours of 7 a.m. to 10 p.m. The FAA approved the nighttime curfew and most of the other measures submitted by the airport sponsor. In March of 1998, the NAA submitted a second Update to its part 150 NCP. In that Update, the NAA proposed extending the current Stage I curfew to a full, 24-hour ban, thereby prohibiting the operation of any Stage I aircraft weighing less than 75,000 pounds at APF.

On September 18, 1998, the FAA published a notice in the **Federal Register** announcing that it would be reviewing the NCP submitted by Naples and requesting comments. 63 FR 49942. The FAA received one letter, from the National Business Aviation Association (NBAA), dated March 27, 1998. That letter indicated that it supplemented its earlier May 28, 1997, comments on the 1997 NCP for Naples, objecting to restrictions on Stage I aircraft operations. The March 27 letter summarized NBAA's earlier comments, objecting to the Stage I ban. As grounds for its objection, the NBAA argues that: (1) The terms of the 24-hour ban deprives public access on unfair and unreasonable terms, (2) the terms of the ban are unjustly discriminatory, and (3) the ban is preempted by federal law. In July of 1998, the NAA provided additional clarification through its consultant, Harris Miller Miller and Hanson, Inc. (HMMH), in response to issues raised during FAA's preliminary review. The analysis and July supplement include evidence of the noise benefit that will accrue to neighboring communities as a result of the ban, statistics on the number of Stage I aircraft operating nationally as well as the number operating at Naples, and information about the existence of other nearby airports available for use by Stage I operators.

Operational Measures

1. Extend Existing Nighttime Stage I Use Restrictions to 24 Hours

The Naples Airport Authority (NAA) requests that the FAA approve extension of the existing nighttime curfew on operations by Stage I aircraft (10 p.m. to 7 a.m.) to a 24 hour ban. "Emergency, medical, or government flights or other flights which are for the

benefit of public health, safety, and welfare would be exempt from the ban." (NCP Update, February 1998; Amendment to NEM and NCP prepared by HMMH, Report 295500, July 24, 1998).

Approved. The NCP demonstrates that the recommended Stage I ban provides a noise benefit both in the short term and in the five year planning timeframes. In 1998, the Stage I ban is predicted to reduce the number of residential dwelling units within the 65 dB DNL from 184 to 77 dwelling units, and to remove 120 individuals from the 65 dB DNL contour. In 2003, the number of residences significantly impacted by noise would be reduced from 185 to 146, and the number of individuals impacted would be reduced by 156. In addition, the ban is reasonable because there are no Stage I aircraft based at the Airport and less than two operations per day are affected by the ban. There are seven companies operating Stage I aircraft at APF; two companies use the aircraft primarily for ambulance services, two other companies have alternate non Stage I aircraft they can utilize, two companies operating only Stage I aircraft offered no objection to the ban, and only one company indicated that the ban would impose an inconvenience but not a financial hardship. For those who do not own alternative aircraft, the impact will be minimal because there are two other airports located within 30 miles of the city of Naples that can accommodate the affected aircraft.

As a matter of policy, FAA does not consider the use of aircraft stage designations to be unjustly discriminatory per se. Moreover, the ban is not unjustly discriminatory because Stage I aircraft are the loudest type of aircraft operating at Naples.

The exemptions to further public health, safety, and welfare, which were applied in 1997 to the Stage I nighttime curfew, are being extended to this 24-hour ban. The FAA commented in September 1997 that the exception of emergency medical flights is a justifiable exception.

The ban on operations by Stage I aircraft weighing less than 75,000 pounds is not federally preempted because the scheme of federal regulation of Stage I aircraft is not so pervasive as to make reasonable the inference that FAA left no room for airport proprietors to supplement it. The FAA's interest in Stage I aircraft is not so dominant that the federal system should be assumed to preclude enforcement of local rules on the same subject, and because the goals of FAA regulation and obligations imposed by FAA do not reveal any

purpose to preclude the exercise of State authority. *See Rice versus Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). *See Pacific Gas & Electric Co. versus State Energy Resources Conservation and Development Comm'n*, 461 U.S. 190, 203-204 (1983).

By stating its intent to conduct further study and actions as may be appropriate when it required the gradual elimination of operations by Stage I aircraft weighing more than 75,000 pounds, FAA did not intend or ordain complete preemption of regulations of operations by all Stage I aircraft. In the preamble of the final rule that phased out operations by Stage I aircraft weighing more than 75,000 pounds, FAA stated ". . . operating noise limits for turbojet airplanes weighing 75,000 pounds or less cannot be adopted in a manner consistent with the constraints in . . . the Act. However, the FAA is expanding its comprehensive analysis of the public impact of aircraft noise. As the results of this study become available over the next two years, FAA will undertake such actions as may be appropriate." 41 FR 56055 (December 23, 1976). Since 1976, the FAA has not conducted the contemplated study and has not undertaken further action, with the result that the use of such aircraft is being gradually eliminated through attrition. Although FAA Advisory Circular 150-5020-1, Airport Noise Compatibility Planning, dated August 5, 1983, and the 1976 Department of Transportation Aviation Noise Abatement Policy warn about conflicts between local airport rules and the federal scheme concerning deadlines for retrofit or replacement of Stage I aircraft, when these statements are read in context it is clear that the FAA is speaking only about Stage I aircraft weighing more than 75,000 pounds. These guidance documents are silent about Stage I aircraft weighing less than 75,000 pounds. Neither document clearly manifests FAA intent to supersede the exercise of proprietary power.

Given FAA's exercise of a detailed and supervisory role over Stage I aircraft weighing more than 75,000 pounds, FAA's silence in these circumstances should not be presumed to be or construed as a barrier to action by Naples Airport Authority to establish requirements as to the permissible level of noise created by Stage I aircraft weighing less than 75,000 pounds using its airport. Based upon the small number of such aircraft left in the total U.S. fleet, estimated by NAA's reported research as less than 50, FAA has determined that further action is not appropriate because there are no federal

concerns requiring national regulation. There do not appear to be any appreciable risks of disruption in traffic to and from airports or economic distress among carriers that require a federal policy to balance the goal of noise reduction with economic and technological difficulties.

Additionally, this is not a case where preemption results from actual conflict between state and federal law. As there is no federal requirement concerning the pace of elimination of operations by Stage I aircraft weighing less than 75,000 pounds, aircraft operators may comply with this local ban on such operations. Based upon the record before us, it does not appear that the Stage I ban at Naples Airport would stand as an obstacle to the accomplishment and execution of purposes and objectives of Congress and the FAA. The small number of such aircraft, the fact that none are based at or used by air carriers at the airport, and the role of Naples Airport indicate that the ban would impose a minimal burden on interstate commerce. Should impacts on air commerce occur which are unforeseeable at the time of this approval, or should the FAA receive significant new information such as that the exemptions are granted in an unjust manner, the FAA will reevaluate this determination upon receipt of new information to ascertain whether it still meets the standards for Part 150 approval.

This determination is set forth in detail in a Record of Approval endorsed by the Administrator on March 2, 1999. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the City of Naples.

Issued in Orlando, Florida on March 4, 1999.

W. Dean Stringer,

Manager, Orlando Airports District Office.

[FR Doc. 99-6738 Filed 3-18-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-99-5]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections.

The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 11, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267-7271 or Terry Stubblefield (202) 267-7624 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on March 16, 1999.

Donald P. Byrne,

Assistance Chief Counsel for Regulations.

Petitions For Exemption

Docket No.: 29401.

Petitioner: Hollingsead International, Inc.

Section of the FAR Affected: 14 CFR 25.855(a), 25.857(e), and 25.1447(c)(1).

Description of Relief Sought: To allow the installation of a groom station with

palletized seating provisions for up to 16 supernumeraries in the aft portion of the main deck cargo compartment on an A300 series passenger to freighter conversion with a Class E cargo compartment.

Docket No.: 29422.

Petitioner: Gulfstream Aerospace Corporation.

Section of the FAR Affected: 14 CFR 43.9(a) (3) and (4), 145.59(a), and 145.61.

Description of Relief Sought: To permit Gulfstream authorized technicians and inspection personnel to permanently use electric signatures in lieu of physical signatures to satisfy the signature and recordkeeping requirements of 43.9(a) (3) and (4), 145.59(a), and 145.61.

Docket No.: 29466.

Petitioner: Bombardier Inc.

Section of the FAR Affected: 14 CFR 25.1435(b)(1).

Description of Relief Sought: In lieu of the requirements of 14 CFR § 25.1435(b)(1), for a complete hydraulic system proof pressure test on the airplane, Bombardier proposes to conduct a proof pressure test at the system relief pressure, 3750 psig, and component testing at 1.5 times operating pressure (4500 psig) per § 25.1435(a)(2).

Dispositions of Petitions

Docket No.: 29270.

Petitioner: The Boeing Company.

Section of the FAR Affected: 14 CFR 21.325(b)(3).

Description of Relief Sought/Disposition: To permit Boeing Company to issue export airworthiness approvals for Class II and Class III products manufactured in Canada by Boeing Toronto, Ltd., as an approved supplier to Boeing under Boeing's production certificate No. 700. *Grant, 2/11/99, Exemption No. 6860*

Docket No.: 29409.

Petitioner: Bombardier Aerospace.

Section of the FAR Affected: 14 CFR 25.1435(b)(1).

Description of Relief Sought/Disposition: To permit Bombardier Aerospace type certification of the Model DHC-8 Series 400. The type certification would be accomplished by conducting a proof pressure test of the hydraulic system at 3250 psig (the system relief pressure) per the proposed 25.1435(c)(3) and by component testing at 1.5 times the operating pressure (4500 psig) per the current 25.1435(a)(2). *Grant, 2/22/99, Exemption No. 6864*

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