

In this section, before clause (1), the words “Under no conditions” are omitted as surplus. In clause (2), the words “or collect” are omitted as surplus.

AMENDMENTS

2012—Par. (2). Pub. L. 112-95 substituted “charge” for “fee”.

§ 47527. Liability of the United States Government for noise damages

When a proposed airport noise or access restriction is disapproved under this subchapter, the United States Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of the disapproval. The United States Court of Federal Claims has exclusive jurisdiction of a civil action under this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47527	49 App.:2155.	Nov. 5, 1990, Pub. L. 101-508, § 9306, 104 Stat. 1388-382.

The words “under this subchapter” are added for clarity. The words “has exclusive jurisdiction of a civil 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