Some commenters felt that the Board had an overly narrow view of airport proprietors' authority. We disagree. This part of the interim policy statement remains an accurate statement of a fundamental principle of law: Airport proprietors clearly have rights, but those rights are not unfettered or unconstrained. They must be exercised in a reasonable, nondiscriminatory manner, and designed to achieve legitimate objectives. *Arapahoe County Public Airport Authority* v. *FAA*, 242 F.3d 1213, 1223 (10th Cir. 2001); *American Airlines* v. *DOT*, 202 F.3d 788, 806–08 (5th Cir. 2000); *National Helicopter Corp.* v. *City of New York*, 137 F.3d 81, 89 (2nd Cir. 1998). It is also true that airport proprietors may not impede federal airspace management interests or unreasonably interfere with interstate or foreign commerce. But these statements are so basic and so broad that they are of limited utility in any particular setting; they can only frame the proper inquiry. Questions about the scope and exercise of proprietary rights, like preemption generally, are most often fact-specific. *Arapahoe County*, 242 F.3d at 1223. Thus, litigation and administrative proceedings will likely continue to refine the contours of this authority, and no single policy statement is apt to comprehend or anticipate its precise parameters.

In sum, the interim policy statement either discusses subjects that have been overtaken by events in the last twenty-five years since the ADA was enacted, or offers statements so general in nature that their value is limited where, as here, new issues continue to evolve. The policy statement has provided assistance in the past, but it has increasingly become less helpful as the industry has changed and evolved over the years. In these circumstances the Department has decided to remove the interim policy statement at 49 CFR 399.110 and end this proceeding. We intend to continue to monitor developments, and to take action to apply the ADA's preemption provision when that is appropriate in individual fact-specific situations. This approach has proven itself in guarding against state and local government actions that improperly interfere with the deregulation of the airline industry. *See Wolens and Arapahoe County*, both *supra*.

Regulatory Analyses and Notices

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866, and therefore it was not reviewed by the Office of Management and Budget. This rule is not considered significant under the Department's regulatory policies and procedures. The change is being made solely for the purposes of eliminating an obsolete statement.

The Department also has determined that this rule has no economic impact. This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

Executive Order 12612

The Department has analyzed this rule under the principles and criteria contained in Executive Order 12612 (''Federalism'') and has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

This action does not contain information collection requirements for purposes of the Paperwork Reduction Act of 1995.

Regulatory Flexibility Act

The Department has evaluated the effects of this rule on small entities. I certify this rule will not have a significant economic impact on a substantial number of small entities, because we are merely removing an obsolete policy statement.

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Air carriers, Air rates and fares, Air taxis, Consumer protection, Small business.

■ For the reasons set forth in the preamble, the Department amends 14 CFR part 399 as follows:

PART 399—STATEMENTS OF GENERAL POLICY

■ 1. The authority citation for part 399 continues to read as follows:

Authority: 49 U.S.C. 40101 *et seq.*

§ 399.110 [Removed]

■ 2. Part 399, subpart J is amended by removing § 399.110.

Issued in Washington, DC on June 13, 2003, under the authority of 49 CFR part 1.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 03–18589 Filed 7–23–03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 36, and 91

[Docket Nos. FAA–2000–7587, FAA–2002–12771, and FAA–1999–6411]

RIN 2120–AI01

Disposition of Comments to Final Rules: Noise Certification Standards for Subsonic Jet and Subsonic Transport Category Large Airplanes; Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia; and, Equivalent Safety Provisions for Fuel Tank System Fault Tolerance Evaluations (SFAR 88)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rules; disposition of comments.

SUMMARY: The FAA is providing response to public comments on three immediately adopted rules. The effect of this action is to close these rulemaking actions. This action is part of our effort to address recommendations of the Government Accounting Office and the Management Advisory Council to reduce the number of items in the Regulatory Agenda, and to accurately reflect agency initiatives.

FOR FURTHER INFORMATION CONTACT: Alicia K. Douglas, Office of Rulemaking (ARM–204), Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591, (202) 267–9681, *alicia.k.douglas@faa.gov.*

SUPPLEMENTARY INFORMATION:

Noise Certification Standards for Subsonic Jet and Subsonic Transport Category Large Airplanes, RIN 2120–AH03

On July 8, 2002, the FAA published a final rule (67 FR 45193), entitled ''Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes''. This immediately adopted rule amended the noise certification standards for subsonic jet airplanes and subsonic transport category large airplanes. These changes were based on the joint effort of the FAA, the European Joint Aviation Authorities (JAA), and the Aviation Rulemaking Advisory Committee. The intent of the change was to harmonize the U.S. noise certification regulations and the European Joint Aviation Requirements for subsonic jet airplanes and subsonic transport category large airplanes to

simplify airworthiness approvals for import and export purposes. The FAA invited comments on revised 14 CFR 36.2 on the applicable noise requirements. The rule became effective August 7, 2002. The comment period closed on September 6, 2002.

The FAA received four responses to the request for comments. Of the four responses, two comments were outside the scope of the request for comments.

Two commenters agreed with the regulations and expressed appreciation for the FAA and JAA efforts to harmonize the noise certification standards. One of the commenters proposed a revision to 14 CFR 36.2 to incorporate the § 21.17(c) time periods for type certification applications. The rule harmonized the applicability requirements of 14 CFR 36.2 with the intent of International Civil Aviation Organization Annex 16, Chapter 1. For harmonization, the FAA chose to adopt the five-year time period specified in Annex 16.

In addition, commenters identified a typographical error, suggested we add a definition of the term, ''other standard'', and recommended a change in the location of the word ''notwithstanding'' in two paragraphs. We corrected the typographical error in the final rule correction notice, published on October 10, 2002 (67 FR 63194). We included an explanation of ''other standards'' in the part 36 advisory material. Placement of the word ''notwithstanding'' at the beginning of the paragraphs did not change the meaning. Therefore, we plan to make no substantive changes to the rule because of these comments.

Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia, RIN 2120–AH41

On July 15, 2002, the FAA published a final rule (67 FR 46568), entitled ''Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia''. This rule removed outdated language, revised several sections, and added one new section to the noise operating regulations. These revisions were to make the noise operating regulations consistent with statutory changes to the Airport Noise and Capacity Act (Act). The FAA invited comments to the new rule. The rule became effective July 15, 2002. The comment period closed on August 14, 2002.

The FAA received comments from the Raleigh-Durham Airport Authority . They noted cross-references to deleted sections and suggested we insert the word ''takeoff'' in certain definitions. They also asserted that the FAA exceeded its authority in allowing the intermix of engines under 14 CFR part 21.

After reviewing the authority's comments, the FAA has determined that the changes made by the final rule are consistent with the Act. Therefore, we plan to make no changes to the rule (67 FR 46568) because of these comments.

Equivalent Safety Provisions for Fuel Tank System Fault Tolerance Evaluations (SFAR 88), RIN 2120–AH85

On September 10, 2002, the FAA published a final rule (67 FR 57490), entitled ''Equivalent Safety Provisions for Fuel Tank System Fault Tolerance Evaluations (SFAR 88)''. This immediately adopted rule added a provision to the existing requirements for fuel tank system fault tolerance evaluations to allow type certificate holders to use equivalent safety provisions for demonstrating compliance. The FAA invited comments to the immediately adopted rule. The comment period closed on October 10, 2002.

The FAA received comments on this rule change from two manufacturers and a public interest group. None of the comments opposed the final rule or requested changes within the scope of the final rule. Therefore, the FAA does not intend to amend this rule.

Conclusion

After consideration of the comments submitted in response to the immediately adopted rules, the FAA has determined that no further rulemaking action is necessary. The following rulemaking activity is closed:

- Noise Certification Standards for Subsonic Jet and Subsonic Transport Category Large Airplanes, RIN 2120–AH03.
- Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia, RIN 2120–AH41.
- Equivalent Safety Provisions for Fuel Tank System Fault Tolerance Evaluations (SFAR 88), RIN 2120–AH85.

Closing these rulemaking actions does not preclude the FAA from issuing a notice on these subjects in the future or from committing to any future course of action.

Issued in Washington, DC, on July 11, 2003.

Marion C. Blakey,

Administrator.

[FR Doc. 03–18591 Filed 7–23–03; 8:45 am]

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