



U.S. Department
of Transportation
**Federal Aviation
Administration**

Dec 3, 1993

Mr. Mark Meyers
Falcon Field Airport
4800 Falcon Drive
Mesa, AZ 85205-2585

Dear Mr. Meyers:

This is in response to your correspondence of October 21, 1993, effectively requesting an interpretation of the scope of applicability of Federal Aviation Regulation (FAR) Part 161. You specifically asked if your understanding was correct that "the 161 process is not involved in establishing noise restrictions or curfews on airports for aircraft of 75,000 pounds or lighter."

Your understanding is not correct. The Airport Noise and Capacity Act of 1990 required that "After December 31, 1999, no person may operate...in the united states any civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds unless such aircraft complies with the stage 3 noise levels.... " In a separate section of the Act, the Congress also required that there be established by regulation a "national program for reviewing airport noise and access restrictions on operations of stage 2 and stage aircraft." In the latter requirement for a national program to review restrictions, the Congress did not make a distinction based on aircraft weight. The 14 CFR part 161, Notice and Approval of Airport Noise and Access Restrictions, applies to an airport imposing a noise or access restriction on any stage 2 or stage 3 aircraft.

At the time the FAA published its draft rule, the FAA invited comments as to how stage 2 aircraft less than 75,000 pounds should be treated, given that they were not to be phased out at the end of the century. The FAA conducted a "Study of the Application of Notice and Analysis Requirements to Operating Noise/Access Restrictions on Subsonic Jets Under 75,000 Pounds", and summarized its conclusions in the Federal Register. A copy of the Federal Register discussion is enclosed for your information. Both the Act and part 161 afford aircraft less than 75,000 pounds the same protection under ANCA as aircraft greater than 75,000 pounds. For proposed restrictions on Stage 2 aircraft, separate detail with respect to the restriction's effect on aircraft less than 75,000 pounds is required, if the restriction applies to that class. For proposed restrictions on Stage 3 aircraft, this distinction is made by the term "aviation user class" as defined in section 161.5. An analysis of effects

by aviation user are required if classes of operators are proposed to ated differently (see Subpart D of part 161).

I hope this explanation has been useful. Should you have any further questions on interpretation or application of part 161, please let me know. As I stated in my previous letter, the Airports Division, Western-Pacific Region, is available to assist you with airport noise compatibility planning at your particular airport. That Airports Division administers the FAA's airport noise compatibility planning program in your state.

Sincerely,

William W. Albee
Manager, Policy and Regulatory Division
Office of Environment and Energy