

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration [Docket No. 28683]

Policy on Funding of Combined Part 150 and Part 161 Studies and Analyses

AGENCY: Federal Aviation Administration, DOT.

ACTION: Policy statement.

SUMMARY: This document states the Federal Aviation Administration (FAA) policy concerning the analysis of proposed airport noise and access restrictions under the requirements of 14 CFR part 161 and the eligibility of such analysis for Federal funding when combined with airport noise compatibility planning under 14 CFR part 150.

DATES: This policy is effective September 16, 1996.

FOR FURTHER INFORMATION CONTACT:

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Ms. Lynne Sparks Pickard, Community and Environmental Needs Division (APP-600), Office of Airport Planning and Programming, telephone (202) 267-3263, facsimile (202) 267-8821. The address for both contacts is FAA, 800 Independence Avenue, SW, Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Background

Title 14 CFR part 150 (part 150), issued as an interim rule in 1981 and a final rule in 1985, implements the former Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. 47501 through 47509, hereinafter referred to as ASNA). Part 150 promotes comprehensive noise evaluation and mitigation and is the primary program under which the FAA supports local airport noise compatibility planning and projects. Part 150 is a voluntary program that allows airport operators to prepare noise exposure maps and to recommend measures in a noise compatibility program to reduce noise and noncompatible land uses. Airport operators may submit airport noise compatibility programs to the FAA for approval under criteria established by ASNA and part 150. The FAA is authorized to provide Airport Improvement Program (AIP) funding for airport noise compatibility planning (i.e., the preparation of the noise exposure maps and the noise compatibility program) and for noise projects (i.e., measures approved by the FAA in a noise compatibility program).

Title 14 CFR part 161 (part 161), issued as a final rule September 25, 1991, implements the Airport Noise and Capacity Act (49 U.S.C. 47521 through 47533, hereinafter referred to as ANCA), enacted in 1990. Part 161 contains requirements governing airport noise and access restrictions (also called use restrictions, or simply restrictions). Part 161 requires analysis and public notice of noise and access restrictions proposed to be adopted by airport operators. Sections 161.211 and 161.321 allow airport operators the option of integrating a part 161 analysis

for a proposed restriction on Stage 2 and Stage 3 aircraft, respectively, with a part 150 planning study. In the preamble to part 161, FAA states that the part 150 option does make Federal financial assistance available to airport operators to analyze a proposed restriction. This statement recognizes that a part 161 analysis is eligible for AIP funding if included within the scope of a part 150 planning study. A part 161 analysis is not otherwise eligible for Federal funding.

In 1995, an airport first proposed to include a part 161 analysis of proposed use restrictions as part of an update to its part 150 study. The FAA Associate Administrator for Airports issued a letter on December 14, 1995, to explain when a part 161 analysis may be eligible for AIP funding through optional use of part 150. This letter has been misinterpreted by some parties as announcing a change in FAA policy concerning imposition of airport noise and access restrictions. The FAA is issuing this policy statement to clarify its position.

Notice of FAA Policy:

Accordingly, the FAA is formally notifying airport operators, airport users, and all other interested persons of the FAA policy concerning the eligibility of analysis of restrictions under part 161 for Federal funding, when accomplished in conjunction with preparation of an airport noise compatibility program under part 150.

Policy Statement:

The FAA has continuously, consistently, and actively encouraged a balanced approach to address noise problems and discouraged unreasonable and unwarranted airport use restrictions. That policy remains unchanged. A restriction should be considered only as a last resort when all other mitigation measures are inadequate to satisfactorily address the problem and a restriction is the only remaining option that could provide noise relief. With limited statutory exceptions, all airport use restriction proposals must comply with the requirements of part 161, including a rigorous analysis.

When an airport operator decides to propose an airport noise and access restriction subject to the requirements of part 161, the FAA encourages that airport operator to integrate its part 161 analysis into a comprehensive part 150 study which first analyzes in detail nonrestrictive measures to mitigate noise, and then analyzes the proposed restriction as a last resort to address a noise problem not mitigated by other measures.

For Stage 2 restrictions, which are not subject to FAA approval under Part 161, the FAA strongly encourages airport operators who have elected to integrate a part 161 analysis into a part 150 study to await the FAA's determinations under part 150 before adopting a Stage 2 restriction. The FAA's part 150 determinations may provide valuable insight to the airport operator regarding the proposed restriction's consistency with existing laws and the position of the FAA with respect to the restriction. This encouragement was explicitly stated in the preamble to part 161 (see 56 FR 48669, September 25, 1991).

Federal funding through the AIP conforms to the legal authorizations established by ASNA and supports the FAA's objectives under ANCA. In order to be eligible for AIP funding, a part 161 analysis must be prepared within the comprehensive noise planning framework established by part 150. A part 161 analysis may be eligible as airport noise compatibility planning if it is included within the scope of work of a part 150 planning study. Alternatively, a part 161 analysis may be eligible as a noise project if it meets the following three conditions: (1) it is recommended in the airport operator's part 150 program as further study necessary to address a noise compatibility problem beyond the scope of the initial part 150 study; (2) it meets part 150 approval criteria and is approved under part 150 for further study; and (3) the part 161 analysis is integrated into a part

150 update following the same procedures prescribed for an initial study in 161.211 for a Stage 2 restriction proposal or 161.321 for a Stage 3 restriction proposal.

AIP funding of a part 161 analysis when integrated with a part 150 planning study in no way represents an FAA endorsement of a restriction or of any results of such an analysis. AIP funding supports the FAA's interest in a rigorous part 161 analysis, when an airport operator has determined to prepare such an analysis; supports the concept of comprehensive and balanced noise planning and mitigation, with restrictions as last resort measures; and supports the issuance of part 150 determinations as a facet of FAA guidance on Stage 2 restriction proposals.

The above eligibility criteria do not guarantee AIP funding. If a proposed noise or access restriction would, on its face, violate existing law or be inconsistent with other powers and duties of the FAA Administrator, it would not be funded for study in connection with a part 150 study. Additionally, all AIP funding decisions are subject to an established priority system and to practical limitations on the amounts of money available during the fiscal year.

Issued in Washington, DC on September 6, 1996

original signed by

David R. Hinson
Administrator