

§ 161.307

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(B) At the applicant's discretion, information may also be submitted as follows:

(1) Evidence that the affected carriers have a reasonable chance to continue service at the airport or at other points in the national airport system.

(2) Evidence that other air carriers are able to provide adequate service to the airport and other points in the system without diminishing competition.

(3) Evidence that comparable services or facilities are available at another airport controlled by the airport operator in the market area, including services available at other airports.

(4) Evidence that alternative transportation service can be attained through other means of transportation.

(5) Information on the absence of adverse evidence or adverse comments with respect to undue burden in the notice process required in §161.303, or alternatively in §161.321, of this part as evidence that there is no undue burden.

(iii) *Condition 3: The proposed restriction maintains safe and efficient use of the navigable airspace.* Essential information needed to demonstrate this statutory condition includes evidence that the proposed restriction maintains safe and efficient use of the navigable airspace based upon:

(A) Identification of airspace and obstacles to navigation in the vicinity of the airport; and

(B) An analysis of the effects of the proposed restriction with respect to use of airspace in the vicinity of the airport, substantiating that the restriction maintains or enhances safe and efficient use of the navigable airspace. The analysis shall include a description of the methods and data used.

(iv) *Condition 4: The proposed restriction does not conflict with any existing Federal statute or regulation.* Essential information needed to demonstrate this condition includes evidence demonstrating that no conflict is presented between the proposed restriction and any existing Federal statute or regulation, including those governing:

(A) Exclusive rights;

(B) Control of aircraft operations; and

(C) Existing Federal grant agreements.

(v) *Condition 5: The applicant has provided adequate opportunity for public comment on the proposed restriction.* Essential information needed to demonstrate this condition includes evidence that there has been adequate opportunity for public comment on the restriction as specified in §161.303 or §161.321 of this part.

(vi) *Condition 6: The proposed restriction does not create an undue burden on the national aviation system.* Essential information needed to demonstrate this condition includes evidence that the proposed restriction does not create an undue burden on the national aviation system such as:

(A) An analysis demonstrating that the proposed restriction does not have a substantial adverse effect on existing or planned airport system capacity, on observed or forecast airport system congestion and aircraft delay, and on airspace system capacity or workload;

(B) An analysis demonstrating that nonaircraft alternative measures to achieve the same goals as the proposed subject restrictions are inappropriate;

(C) The absence of comments with respect to imposition of an undue burden on the national aviation system in response to the notice required in §161.303 or §161.321.

§ 161.307 Comment by interested parties.

(a) Each applicant proposing a restriction shall establish a public docket or similar method for receiving and considering comments, and shall make comments available for inspection by interested parties upon request. Comments must be retained as long as the restriction is in effect.

(b) Each applicant shall submit to the FAA a summary of any comments received. Upon request by the FAA, the applicant shall submit copies of the comments.

§ 161.309 Requirements for proposal changes.

(a) Each applicant shall promptly advise interested parties of any changes to a proposed restriction or alternative restriction that are not encompassed in the proposals submitted, including changes that affect noncompatible land