

§ 161.409

(7) Information on how to request a copy of the analysis (if not in the notice); and

(8) The address for submitting comments to the aircraft operator, including identification of a contact person.

§ 161.409 Required analysis by reevaluation petitioner.

(a) An aircraft operator that has petitioned the FAA to reevaluate a restriction shall assume the burden of analysis for the reevaluation.

(b) The aircraft operator's analysis shall be made available for public review under the procedures in § 161.407 and shall include the following:

(1) A copy of the restriction or the language of the agreement as incorporated in a local ordinance, airport rule, lease, or other document;

(2) The aircraft operator's status under the restriction (e.g., currently affected operator, potential new entrant) and an explanation of the aircraft operator's specific objection to the restriction;

(3) The quantified change in the noise environment using methodology specified in this part;

(4) Evidence of the relationship between this change and the likelihood that the restriction does not meet one or more of the conditions in § 161.305; and

(5) Sufficient data and analysis selected from § 161.305, as applicable to the restriction at issue, to support the contention made in paragraph (b)(4) of this section. This is to include either an adequate environmental assessment of the impacts of discontinuing all or part of a restriction in accordance with the aircraft operator's petition, or adequate information supporting a categorical exclusion under FAA orders implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

(c) The amount of analysis may vary with the complexity of the restriction, the number and nature of the conditions in § 161.305 that are alleged to be unsupported, and the amount of previous analysis developed in support of the restriction. The aircraft operator may incorporate analysis previously developed in support of the restriction, including previous environmental doc-

14 CFR Ch. I (1-1-04 Edition)

umentation to the extent applicable. The applicant is responsible for providing substantial evidence, as described in § 161.305, that one or more of the conditions are not supported.

§ 161.411 Comment by interested parties.

(a) Each aircraft operator requesting a reevaluation shall establish a docket or similar method for receiving and considering comments and shall make comments available for inspection to interested parties specified in paragraph (b) of this section upon request. Comments must be retained for two years.

(b) Each aircraft operator shall promptly notify interested parties if it makes a substantial change in its analysis that affects either the costs or benefits analyzed, or the criteria in § 161.305, differently from the analysis made available for comment in accordance with § 161.407. Interested parties include those who received direct notice under paragraph (a) of § 161.407 and those who have commented on the reevaluation. If an aircraft operator revises its analysis, it shall make the revised analysis available to an interested party upon request and shall extend the comment period at least 45 days from the date the revised analysis is made available.

§ 161.413 Reevaluation procedure.

(a) Each aircraft operator requesting a reevaluation shall submit to the FAA:

(1) The analysis described in § 161.409;

(2) Evidence that the public review process was carried out in accordance with §§ 161.407 and 161.411, including the aircraft operator's summary of the comments received; and

(3) A request that the FAA complete a reevaluation of the restriction and issue findings.

(b) Following confirmation by the FAA that the aircraft operator's documentation is complete according to the requirements of this subpart, the FAA will publish a notice of reevaluation in the FEDERAL REGISTER and provide for a 45-day comment period during which

interested parties may submit comments to the FAA. The FAA will specifically solicit comments from the affected airport operator and affected local governments. A submission that is not complete will be returned to the aircraft operator with a letter indicating the deficiency, and no notice will be published. No further action will be taken by the FAA until a complete submission is received.

(c) The FAA will review all submitted documentation and comments pursuant to the conditions of §161.305. To the extent necessary, the FAA may request additional information from the aircraft operator, airport operator, and others known to have information material to the reevaluation, and may convene an informal meeting to gather facts relevant to a reevaluation finding.

§ 161.415 Reevaluation action.

(a) Upon completing the reevaluation, the FAA will issue appropriate orders regarding whether or not there is substantial evidence that the restriction meets the criteria in §161.305 of this part.

(b) If the FAA's reevaluation confirms that the restriction meets the criteria, the restriction may remain as previously agreed to or approved. If the FAA's reevaluation concludes that the restriction does not meet the criteria, the FAA will withdraw a previous approval of the restriction issued under subpart D of this part to the extent necessary to bring the restriction into compliance with this part or, with respect to a restriction agreed to under subpart B of this part, the FAA will specify which criteria are not met.

(c) The FAA will publish a notice of its reevaluation findings in the FEDERAL REGISTER and notify in writing the aircraft operator that petitioned the FAA for reevaluation and the affected airport operator.

§ 161.417 Notification of status of restrictions and agreements not meeting conditions-of-approval criteria.

If the FAA has withdrawn all or part of a previous approval made under subpart D of this part, the relevant portion of the Stage 3 restriction must be rescinded. The operator of the affected

airport shall notify the FAA of the operator's action with regard to a restriction affecting Stage 3 aircraft operations that has been found not to meet the criteria of §161.305. Restrictions in agreements determined by the FAA not to meet conditions for approval may not be enforced with respect to Stage 3 aircraft operations.

Subpart F—Failure to Comply With This Part

§ 161.501 Scope.

(a) This subpart describes the procedures to terminate eligibility for airport grant funds and authority to impose or collect passenger facility charges for an airport operator's failure to comply with the Airport Noise and Capacity Act of 1990 (49 U.S.C. App. 2151 *et seq.*) or this part. These procedures may be used with or in addition to any judicial proceedings initiated by the FAA to protect the national aviation system and related Federal interests.

(b) Under no conditions shall any airport operator receive revenues under the provisions of the Airport and Airway Improvement Act of 1982 or impose or collect a passenger facility charge under section 1113(e) of the Federal Aviation Act of 1958 if the FAA determines that the airport is imposing any noise or access restriction not in compliance with the Airport Noise and Capacity Act of 1990 or this part. Rescission of, or a commitment in writing signed by an authorized official of the airport operator to rescind or permanently not enforce, a noncomplying restriction will be treated by the FAA as action restoring compliance with the Airport Noise and Capacity Act of 1990 or this part with respect to that restriction.

§ 161.503 Informal resolution; notice of apparent violation.

Prior to the initiation of formal action to terminate eligibility for airport grant funds or authority to impose or collect passenger facility charges under this subpart, the FAA shall undertake informal resolution with the airport operator to assure compliance with the Airport Noise and Capacity Act of 1990 or this part upon receipt of