

provisions of ordinances and leases) affecting access or noise that affect the operations of Stage 2 or Stage 3 aircraft, such as limits on the noise generated on either a single-event or cumulative basis; a limit, direct or indirect, on the total number of Stage 2 or Stage 3 aircraft operations; a noise budget or noise allocation program that includes Stage 2 or Stage 3 aircraft; a restriction imposing limits on hours of operations; a program of airport-use charges that has the direct or indirect effect of controlling airport noise; and any other limit on Stage 2 or Stage 3 aircraft that has the effect of controlling airport noise. This definition does not include peak-period pricing programs where the objective is to align the number of aircraft operations with airport capacity.

Stage 2 aircraft means an aircraft that has been shown to comply with the Stage 2 requirements under 14 CFR part 36.

Stage 3 aircraft means an aircraft that has been shown to comply with the Stage 3 requirements under 14 CFR part 36.

[Doc. No. 26432, 56 FR 48698, Sept. 25, 1991, as amended by Amdt. 161-2, 66 FR 21067, Apr. 27, 2001]

§ 161.7 Limitations.

(a) Aircraft operational procedures that must be submitted for adoption by the FAA, such as preferential runway use, noise abatement approach and departure procedures and profiles, and flight tracks, are not subject to this part. Other noise abatement procedures, such as taxiing and engine runups, are not subject to this part unless the procedures imposed limit the total number of Stage 2 or Stage 3 aircraft operations, or limit the hours of Stage 2 or Stage 3 aircraft operations, at the airport.

(b) The notice, review, and approval requirements set forth in this part do not apply to airports with restrictions as specified in 49 U.S.C. App. 2153(a)(2)(C):

(1) A local action to enforce a negotiated or executed airport aircraft noise or access agreement between the airport operator and the aircraft operator in effect on November 5, 1990.

(2) A local action to enforce a negotiated or executed airport aircraft noise or access restriction the airport operator and the aircraft operators agreed to before November 5, 1990.

(3) An intergovernmental agreement including airport aircraft noise or access restriction in effect on November 5, 1990.

(4) A subsequent amendment to an airport aircraft noise or access agreement or restriction in effect on November 5, 1990, where the amendment does not reduce or limit aircraft operations or affect aircraft safety.

(5) A restriction that was adopted by an airport operator on or before October 1, 1990, and that was stayed as of October 1, 1990, by a court order or as a result of litigation, if such restriction, or a part thereof, is subsequently allowed by a court to take effect.

(6) In any case in which a restriction described in paragraph (b)(5) of this section is either partially or totally disallowed by a court, any new restriction imposed by an airport operator to replace such disallowed restriction, if such new restriction would not prohibit aircraft operations in effect on November 5, 1990.

(7) A local action that represents the adoption of the final portion of a program of a staged airport aircraft noise or access restriction, where the initial portion of such program was adopted during calendar year 1988 and was in effect on November 5, 1990.

(c) The notice, review, and approval requirements of subpart D of this part with regard to Stage 3 aircraft restrictions do not apply if the FAA has, prior to November 5, 1990, formed a working group (outside of the process established by 14 CFR part 150) with a local airport operator to examine the noise impact of air traffic control procedure changes. In any case in which an agreement relating to noise reductions at such airport is then entered into between the airport proprietor and an air carrier or air carrier constituting a majority of the air carrier users of such airport, the requirements of subparts B and D of this part with respect to restrictions on Stage 3 aircraft operations do apply to local actions to enforce such agreements.

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(d) Except to the extent required by the application of the provisions of the Act, nothing in this part eliminates, invalidates, or supersedes the following:

(1) Existing law with respect to airport noise or access restrictions by local authorities;

(2) Any proposed airport noise or access regulation at a general aviation airport where the airport proprietor has formally initiated a regulatory or legislative process on or before October 1, 1990; and

(3) The authority of the Secretary of Transportation to seek and obtain such legal remedies as the Secretary considers appropriate, including injunctive relief.

§ 161.9 Designation of noise description methods.

For purposes of this part, the following requirements apply:

(a) The sound level at an airport and surrounding areas, and the exposure of individuals to noise resulting from operations at an airport, must be established in accordance with the specifications and methods prescribed under appendix A of 14 CFR part 150; and

(b) Use of computer models to create noise contours must be in accordance with the criteria prescribed under appendix A of 14 CFR part 150.

§ 161.11 Identification of land uses in airport noise study area.

For the purposes of this part, uses of land that are normally compatible or noncompatible with various noise-exposure levels to individuals around airports must be identified in accordance with the criteria prescribed under appendix A of 14 CFR part 150. Determination of land use must be based on professional planning, zoning, and building and site design information and expertise.

Subpart B—Agreements

§ 161.101 Scope.

(a) This subpart applies to an airport operator's noise or access restriction on the operation of Stage 3 aircraft that is implemented pursuant to an agreement between an airport operator and all aircraft operators affected by

the proposed restriction that are serving or will be serving such airport within 180 days of the date of the proposed restriction.

(b) For purposes of this subpart, an agreement shall be in writing and signed by:

(1) The airport operator;

(2) Those aircraft operators currently operating at the airport who would be affected by the noise or access restriction; and

(3) All new entrants that have submitted the information required under § 161.105(a) of this part.

(c) This subpart does not apply to restrictions exempted in § 161.7 of this part.

(d) This subpart does not limit the right of an airport operator to enter into an agreement with one or more aircraft operators that restricts the operation of Stage 2 or Stage 3 aircraft as long as the restriction is not enforced against aircraft operators that are not party to the agreement. Such an agreement is not covered by this subpart except that an aircraft operator may apply for sanctions pursuant to subpart F of this part for restrictions the airport operator seeks to impose other than those in the agreement.

§ 161.103 Notice of the proposed restriction.

(a) An airport operator may not implement a Stage 3 restriction pursuant to an agreement with all affected aircraft operators unless there has been public notice and an opportunity for comment as prescribed in this subpart.

(b) In order to establish a restriction in accordance with this subpart, the airport operator shall, at least 45 days before implementing the restriction, publish a notice of the proposed restriction in an areawide newspaper or newspapers that either singly or together has general circulation throughout the airport vicinity or airport noise study area, if one has been delineated; post a notice in the airport in a prominent location accessible to airport users and the public; and directly notify in writing the following parties:

(1) Aircraft operators providing scheduled passenger or cargo service at the airport; affected operators of aircraft based at the airport; potential