

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Notice No. 91-1; Docket No. 26447]

Request for Comment and Information; Report to Congress

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comment and information regarding Report to Congress on recommendations for a national aviation noise policy.

SUMMARY: This notice requests comment and information to help fulfill a requirement of the Airport Noise and Capacity Act of 1990 instructing the Secretary of Transportation to provide recommendations to the U.S. Congress on specific aviation noise policy issues. This notice solicits, on a voluntary basis, information and comment on specific issues and questions which would be helpful in providing a useful Report to Congress.

DATES: Comments should be submitted as soon as possible, and no later than February 15, 1991. Comments received beyond this date cannot be assured consideration.

ADDRESSES: Send all comments and information in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Docket No. 26447, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Tony Fazio, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3564.

SUPPLEMENTARY INFORMATION:**Background**

Airport related noise currently affects several million people in the United States. In an effort to resolve this problem, a number of Federal initiatives have been implemented over the last several decades. To encourage quieter aircraft, the Congress, in 1968, amended the Federal Aviation Act of 1958 to require all jet aircraft to meet Federal noise standards. Subsequent regulations required that all newly manufactured aircraft meet progressively stricter noise levels. In 1976, the FAA established regulations which required the phaseout of the Stage 1 aircraft. This action reduced the number of individuals residing in the DNL 65 noise contour from about 7 million people in the 1970's to approximately 3 million today.

Understanding that land-use compatibility planning is an essential part of easing the effects of aircraft noise, Airport Improvement Program (AIP) funding is available to fund noise compatibility programs such as soundproofing, easements, relocation expenses, and related studies. Currently, not less than 10 percent of funds made available under the AIP for any fiscal year shall be obligated for planning and implementing noise compatibility programs. In each fiscal year since 1982 the amount of funds made available for noise compatibility projects has exceeded the minimum statutory requirement through the use of airport entitlements or additional discretionary funding. In addition, Federal Aviation Regulation, part 150, Airport Noise Compatibility Program was established in 1981 to guide and control planning for aviation noise compatibility on and around airports.

Along with the Federal initiative, the Aviation Noise and Abatement Policy Statement of 1976 identified the roles of the Federal and State/local governments, and airport proprietors in noise abatement solutions. In particular, the policy stated that "State and local governments and Planning agencies must provide for land-use planning and development, zoning, and housing regulations that will limit the uses of land near airports to purposes compatible with airport operations."

The Aviation Safety and Capacity Expansion Act of 1990 (hereinafter "the legislation"), enacted November 5, 1990, directs the Secretary of Transportation to issue regulations establishing a national aviation noise policy. Specifically, the legislation requires the mandatory phaseout of Stage 2 aircraft by the year 2000, the Federal review of future Stage 2 restrictions and Federal approval of future Stage 3 aircraft noise restrictions, and the provision that any airport that does not comply with the national noise policy will not be permitted to impose or collect passenger facility charges or receive airport revenues under the provisions of the Airport and Airway Improvement Act of 1982. These regulations are being developed concurrently through separate rulemaking procedures.

Additionally, the legislation directs the Secretary to transmit recommendations to Congress, no later than July 1, 1991, on other specific issues related to aviation noise. In particular, the legislation requests recommendations on the following issues:

(1) The need for changes in the standards and procedures which govern the rights of State and local

governments (including airport authorities) to restrict aircraft operations for the purpose of limiting aircraft noise;

(2) The need for changes in the standards and procedures which govern law suits by persons adversely affected by aircraft noise;

(3) The need for changes in standards and procedures for Federal regulation of airspace (including the pattern of operations for the air traffic control system) in order to take better account of environmental effects;

(4) The need for changes in the Federal program providing assistance for noise abatement planning and programs, including the need for greater incentives or mandatory requirements for local restrictions on the use of land impacted by aircraft noise;

(5) Whether any changes in policy recommended in paragraphs (1) through (4) should be accomplished through regulatory, administrative, or legislative action; and

(6) Specific legislative proposals necessary for implementing the national aviation noise policy.

Request for Information

The FAA is particularly interested in soliciting comment and information regarding the six specific issues requested by Congress. To help focus the content of discussion, the following questions are provided to stimulate thought and comment. The public is encouraged to provide additional comment regarding any of the issues requested by Congress.

(1) How might all airports and associated communities be encouraged to participate in land-use compatibility planning?

(2) How might airports and associated communities be encouraged to protect and improve land-use compatibility around airports?

(3) What mandatory restrictions would be useful, desirable, and reasonable for the Federal Government to impose on the use of land impacted by aircraft noise either under existing law or new legislation?

(4) Would financial or other incentives, either to local governments or the private sector, promote compatible land-use around airports? If so, what might the incentives be, how might they be implemented, and how might they be funded?

(5) How can land-use provisions proposed for adoption under a FAR part 150 airport noise compatibility program be assured implementation?

(6) Is there a need for additional guidance on airport noise control and

land-use compatibility planning? If so, what type?

(7) Should a Federal, State, or local mechanism be established to ensure that all prospective home owners within noncompatible land-use areas be provided sufficient notice of current and/or potential noise impacts?

(8) Should a process be established to provide financial or other incentives in exchange for an assurance that no airport noise or access restrictions will be placed on the operations of Stage 3 aircraft? What would the incentives be, how might they be implemented, and how might they be funded?

(9) Should airport environmental protection areas (AEPA) which promote compatible land-use around airports be encouraged or adopted by state legislation? Should new financial or other incentives be provided if AEPA's are adopted?

(10) The FAA has recently issued a directive which mandates the evaluation of environmental consequences prior to

implementation of air traffic procedural changes which would routinely route air traffic over residential areas above 3,000 feet ground level. This directive provides a means of identifying new or revised air traffic procedures resulting in increased noise exposure and enables procedures specialists to design new procedures with optimal environmental consideration. What further changes, if any, should be considered whenever significant air traffic procedures are adopted?

(11) Section 9308(b) of the legislation permits the Secretary to grant waivers to domestic U.S. air carriers from the December 31, 1999, Stage 3 compliance deadline so long as a carrier's fleet is at least 85 percent Stage 3 by July 1, 1999, and if the carrier has firm orders for hush kit or new plane deliveries after December 31, 1999. Waivers may not extend beyond December 31, 2003, and must be shown to be in the public interest. Should a similar waiver provision be afforded international

carriers serving U.S. ports of entry? If so, how might such a waiver be implemented and enforced?

(12) Should existing Federal standards and procedures concerning aviation noise law suits be modified to reflect the changes enacted under the new legislation?

The questions listed above are included to help stimulate constructive thought and to encourage public response to the docket. Comments are not restricted only to these questions. However, the FAA requests that any comments associated with specific rulemaking required under the legislation be submitted to public dockets established for this purpose. Your participation in this opportunity for comment is encouraged.

Issued in Washington, DC on January 17, 1991.

James E. Densmore,
Director, Office of Environment and Energy.
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