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DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

14 CFR Part 150

[Docket No. FAA-2004-19158; Amendment No. 150-4]

RIN 2120-AI37

Airport Noise Compatibility Planning

Part IV

70 FR 29066

DATE: Thursday, May 19, 2005

ACTION: Disposition of comments.

SUMMARY: On September 24, 2004, the Federal Aviation Administration (FAA) published a final rule, with request for comments, to amend the regulations implementing airport noise compatibility planning. The amendment included revisions stemming from changes to the authorizing legislation that had not been incorporated into the implementing regulations. In addition, the final rule contained several minor, technical changes. This action is a summary and disposition of the comments received in response to that final rule.

ADDRESSES: You can view the complete document for the final rule by going to <http://dms.dot.gov>. You can also go to Room PL-401 of the Nassif Building (plaza level), 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Victoria L. Catlett, APP-600, Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3263; facsimile (202) 267-8821; e-mail vicki.catlett@faa.gov.

SUPPLEMENTARY INFORMATION: The regulations which prescribe the procedures, standards and methodologies governing the development, submission and review of airport noise exposure maps (NEMs) and airport noise compatibility programs are found at 14 CFR part 150 *et seq.* The underlying authorizing legislation for these regulations is found at 49 U.S.C. 47501 *et seq.* and was formerly known as the Aviation Safety and Noise Abatement Act of 1979 (ASNA) and 49 U.S.C. 2101 *et seq.*

The final rule entitled "Airport Noise Compatibility Planning" (69 FR 57622, September 24, 2004) amended part 150 to conform to the following changes in the authorizing legislation:

1. On December 30, 1987, Congress enacted the Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100-223 (AASCE). Section 301 of AASCE amended the authorizing legislation to require airport sponsors to provide notice and an opportunity for a public hearing before filing noise compatibility programs with the FAA.
2. In 1994, the major Federal transportation laws enacted before July 1, 1993, were repealed, restated without substantive changes, and recodified in title 49 of the United States Code ("Revision of Title 49, United States Code Annotated, 'Transportation'", Public Law 103-272, July 25, 1994). Based on this recodification, the statutory citations in part 150 needed to be updated to reflect the repeal and replacement of ASNA.
3. On December 12, 2003, the President signed Vision 100--Century of Aviation Reauthorization Act, Public Law 108-176 (Vision 100). Section 324 of Vision 100 amended the authorizing legislation to clarify that sponsors should prepare NEMs for a forecast period that is at least five years in the future and to require revised NEMs when changes in the operation of the airport would significantly reduce noise over existing noncompatible land uses not reflected in either the existing or forecast NEM.

In addition, the final rule included several minor, technical revisions. First, it changed the minimum scale of NEMs to ease the FAA's implementation of Section 322 of Vision 100. Section 322 requires us to make noise exposure and land use information from NEMs available to the public on the Internet via our Web site. We determined that, given the amount of information contained in NEMs, it is necessary to enlarge the minimum scale to allow us to provide useful information on the Internet. The final rule also changed the locations where documents are available for inspection because several FAA regional offices have moved since 1989.

Discussion of Comments

The docket received two comments in response to the final rule. The first, from the Los Angeles International Airport/Community Noise Roundtable (the Roundtable), offers its support, stating the revisions to part 150 improve and support its efforts to mitigate noise impacts. The Roundtable believes allowing an airport sponsor to select an NEM forecast period longer than five years is desirable, stating this flexible forecast period is more likely to indicate significant future noise impacts when applying the FAA's day-night average sound level metric and incremental change criteria. Finally, the Roundtable believes posting noise exposure and land use information from NEMs on the FAA's Web site is an important step in keeping communities informed about current and projected future noise exposure.

The second comment, from the Raleigh Durham Airport Authority (RDAA), disagrees with the change that allows airport sponsors to select a flexible forecast period for their NEMs.

RDAA believes the forecast period for NEMs should remain at five years, and that airports should be given the option to produce a forecast NEM for an additional forecast period (for

example, ten years) for the following reasons:

. RDAA notes that forecasts exceeding five years could prove inaccurate as noise impacts at airports do not remain constant (even if the airfield does) due to changes to the number of operations, the times of operations, the types of airplane equipment used and runway use.

. RDAA states that five and ten-year forecast periods for NEMs could help airports and the FAA identify areas of existing non-compatibility for noise mitigation within five years and areas of future non-compatibility for rezoning within ten years.

. RDAA believes that keeping the five-year forecast period could prevent debate between the FAA and an airport over the need to develop a revised NEM when noise exposure is changing a small percentage every year.

Based on the plain language in Vision 100 about NEM forecast periods, Congress clearly intended to make five years a minimum, but no longer a mandatory, forecast period. The FAA has amended § 150.21(a)(1) to allow for use of periods greater than five years pursuant to Vision 100. The ability to use longer forecast periods does not represent a significant change. The FAA previously permitted airport sponsors to prepare additional maps for forecast periods greater than five years and airport sponsors may still do so. The change to allow airport sponsors to select a forecast period longer than five years provides them flexibility. While airport sponsors are still required to select a forecast period of at least five years, they are not required to select a forecast period beyond five years. This flexibility reduces the possibility of conflicting information among various airport-related studies and enables airport sponsors to adjust the NEM forecast period where other related studies are using initial forecast periods longer than five years.

As for RDAA's concern that debates between the FAA and airports will [*29067] increase about whether small changes in noise require NEM updates, the FAA respectfully disagrees. Section 150.21(d) requires airport sponsors to update their NEMs if a change in the operation of the airport would create a significant increase in noise over noncompatible land uses not reflected on the NEM. Pursuant to Section 324 of Vision 100, airport sponsors are now also required to update their NEMs if changes in the operation of the airport would cause a significant reduction in noise over existing noncompatible land uses not reflected on an NEM. Experience has shown that it normally would take a substantial change in operations at an airport to trigger a 1.5 day-night average sound level increase or decrease that would warrant an NEM update.

Existing tools, including the Area Equivalent Method, are available to help airport sponsors monitor changes in the NEMs. The Area Equivalent Method is a mathematical procedure that provides an estimated noise contour area of a specific airport given the types of aircraft and the number of operations for each aircraft. Airport sponsors normally monitor the progress of their noise compatibility program implementation. Also, airport sponsors may crosscheck existing NEM information already on file with noise contours being generated for ongoing environmental or planning studies. All these methods should provide a relatively simple way to determine if the NEM on file with the FAA needs to be updated.

Conclusion

After consideration of the comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. Amendment No. 1150-4 remains in effect as adopted.

Issued in Washington, DC, on May 10, 2005.

Marion C. Blakey,

