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Local Noise Standards for Land Use Compatibility

When one looks to the FAA or other Federal agencies for criteria to define compatible land use around airports, you may be surprised to find that no standards exist. What you find are "guidelines," which are based on quality of life concerns rather than on proven health effects. So I raise the question - should the FAA try to set a rigid airport noise exposure standard? If in your mind you answer yes, then ask yourself: "Should that standard be set at a level that only protects health, or should it be at some lower level that considers quality of life?" Those readers who are most familiar with aviation noise issues would likely conclude that the concept of a single, rigid Federal noise exposure standard to define compatible land use around airports for every community - big or small, rich or poor - is highly illogical. That said, I find it truly baffling that most local jurisdictions around the nation have completely deferred to FAA's airport noise exposure guideline of Day-Night Average Noise Level (DNL) 65 dBA as if it is a rigid standard set down by regulation.

My obvious point is that each community should define its own noise exposure criteria for compatible land use around airports. That is what Congress intended when it passed the Noise Control Act of 1972, which charged the EPA to establish a national noise policy "to promote an environment for all Americans free from noise that jeopardizes their public health and welfare." That Act, which assigned primary responsibility for source noise control to Federal agencies, assigned to the states and other political subdivisions the primary responsibility to control the use of noise sources and the levels of noise permitted in their environment. Had Congress not limited local government authority by vesting preeminent control over aircraft operations in the FAA (in order to assure a safe and efficient national aviation system), State and local jurisdictions would have had the authority to place limits on aircraft operations in their local environment. While this may be frustrating to many communities, this FAA authority is vital to insure that the national transportation system remains a cornerstone of our national economy, a fact that also explains why Congress consistently favors an unrestricted national aviation system in the legislation that is ultimately enacted.

Given such severe limitations in their ability to control the number and type of airplanes overhead, what should communities do? The logical answer is that local officials must plan far, far into the future. They must ask themselves: "What is the future demand for local aviation services going to be 20, 30 or 50 years from now? What kind of airplanes will be fulfilling that demand? How much noise will they make? How much compatible land area around the airport is needed to assure the demand for aviation services can be met without limitations?"

To answer these questions, local officials must make their best estimate of the worst case scenario for future noise contours, as did the Metropolitan Washington Airports Authority (MWAA) several years ago for Dulles Airport when officials modeled a full capacity contour 25 years in the future. Armed with this information, MWAA officials convinced the surrounding jurisdictions to zone for compatible land use based on those future noise contours. With future, full capacity noise contours in hand, local governments must then either adopt FAA compatible land use guidelines as their local standard, or set their own standards based on public input and economic considerations. They must also forecast the land use demands inside those future contours. They must ask themselves: "How much of that demand is noise sensitive? Can undeveloped land inside those contours be zoned for more compatible commercial or industrial rather than residential use, particularly when the near term demand is for residential and the commercial or industrial demand won't materialize until considerably later." These are hard decisions that may take years of process before they can be made. It took Loudoun County, Vir. next to Dulles Airport well over a decade of public and behind the scenes effort to put in place one of the best compatible land use zoning ordinances in the nation.

When the land inside the current and future noise contours is already built out with noise sensitive uses, there are few mitigation measures available that will actually reduce noise exposure. One is to develop high-resolution noise abatement flight tracks dependent on advanced navigation technology to thread the needle through populated areas using available compatible corridors, such as highways, railroads, rivers and vacant land. A highly effective, but costly measure is acquisition by the airport of the adjacent property that is subject to the highest noise levels. The option most extensively applied around the United States is residential sound insulation. Acquisition of avigation easements and requirements to disclose noise impacts to potential buyers are available options that do not reduce noise exposure, but are viable measures that should be strongly considered in every airport's noise compatibility program.

In my view, if starting now, noise disclosure were required nationwide for every property transaction inside a DNL 55 dB airport noise contour, in about 20 to 30 years, the majority of the highly noise sensitive people residing inside those contours will have moved on, and the new owners will have been forewarned of the noise levels. This measure has the added benefit of implementation with no expenditure of tax dollars. So why hasn't it been widely implemented? Most people fear a decrease in property values if they must disclose noise impacts; but in truth, the true value of a property is reflected only when all material conditions are known to the potential buyers. Opponents have successfully precluded adoption of noise disclosure in many, but not all jurisdictions. Orlando, Fla. recently succeeded in passing a zoning ordinance that requires noise disclosure for all property transfers inside the DNL 55 dB contour. Raleigh/Durham Airport successfully used a 1996 change in state law to directly impose disclosure within the DNL 55 dB noise contour around the airport. Airport staff there report very few complaints about the disclosure requirement, and there has been no apparent impact on property values. Local Realtors favor the disclosure requirement because they no longer receive complaints that they failed to disclose the airport noise impact. These communities, at least by this criterion, have clearly established DNL 55 dB as their

local noise standard.

Minneapolis and Cleveland have recently taken steps to formally establish DNL 60 dB as their local threshold for compatible land use. Both announced programs to expand their Part 150 residential sound insulation programs to the DNL 60 dB contour line. But will the FAA approve the use of Federal funds for sound insulation programs outside of DNL 65 dB noise contours? The answer is yes! Cleveland's Part 150 Update (see http://www.faa.gov/arp/app600/14cfr150/roacle.htm) contains a measure to sound insulate residences within or contiguous to the 60 DNL band of the NCP noise contours. FAA approved the measure in August, 2000 on the basis that the airport operator has adopted the DNL 60 dB noise contour as the designation of noncompatible land use, thus making the measure fully eligible for AIP or PFC funding.

FAA approval hinges on the distinction between compatible and noncompatible land use. Therefore, airport and local officials must clearly establish a local standard for compatible land use below FAA's DNL 65 dB guideline if they wish to obtain FAA funding approval for mitigation projects to achieve their lower standard. The footnote to the land use compatibility table in FAR Part 150, appendix A says:
"The designations contained in this table do not constitute a Federal determination that any use of land covered by the program is acceptable or unacceptable under Federal, state or local law. The responsibility for determining the acceptable and permissible land uses and the relationship between specific properties and specific noise contours rests with local authorities. FAA determinations under part 150 are not intended to substitute federally determined land uses for those determined to be appropriate by local authorities in response to locally determined needs and values in achieving noise compatible land uses."

A key passage in the FAA's proposed noise policy update, which was published for comment in the FR on July 14, 2000, states that the FAA will support efforts to establish local noise standards and that the FAA will recognize those standards in Part 150 noise compatibility programs. Hopefully, that commitment will encourage local officials and concerned citizens to engage in the necessary process to establish a local land use noise compatibility standard for airport noise that accurately reflects the community's opinions and values. In general, everyone wants their local economy to grow and we all want affordable, efficient aviation services; but at the same time affected citizens also demand continuing reductions in noise impacts. I believe that establishment and enforcement of a local land use compatibility standard for airport noise is the key ingredient in achieving a lasting balance between these competing demands. The alternative for those communities near airports that fail to use their zoning authority to establish a widely accepted airport noise standard is ever growing conflict with their airport and air carriers. Unresolved, these conflicts lead to more delays, fewer choices, higher fares and fees, and in the worst cases, protracted litigation over noise impacts.

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