

§161.211 of this part, and those that have commented on the proposed restriction.

(b) If there are substantial changes to the proposed restriction or the analysis during the 180-day notice period, the airport operator shall initiate new notice following the procedures in §161.203 or, alternatively, the procedures in §161.211. A substantial change includes, but is not limited to, a proposal that would increase the burden on any aviation user class.

(c) In addition to the information in §161.203(c), new notice must indicate that the airport operator is revising a previous notice, provide the reason for making the revision, and provide a new effective date (if any) for the restriction. The effective date of the restriction must be at least 180 days after the date the new notice and revised analysis are made available for public comment.

**§ 161.211 Optional use of 14 CFR part 150 procedures.**

(a) An airport operator may use the procedures in part 150 of this chapter, instead of the procedures described in §§161.203(b) and 161.209(b), as a means of providing an adequate public notice and comment opportunity on a proposed Stage 2 restriction.

(b) If the airport operator elects to use 14 CFR part 150 procedures to comply with this subpart, the operator shall:

(1) Ensure that all parties identified for direct notice under §161.203(b) are notified that the airport's 14 CFR part 150 program will include a proposed Stage 2 restriction under part 161, and that these parties are offered the opportunity to participate as consulted parties during the development of the 14 CFR part 150 program;

(2) Provide the FAA with a full text of the proposed restriction, including any sanctions for noncompliance, at the time of the notice;

(3) Include the information in §161.203(c)(2) through (c)(5) and 161.205 in the analysis of the proposed restriction for the part 14 CFR part 150 program;

(4) Wait 180 days following the availability of the above analysis for review by the consulted parties and compliance with the above notice require-

ments before implementing the Stage 2 restriction; and

(5) Include in its 14 CFR part 150 submission to the FAA evidence of compliance with paragraphs (b)(1) and (b)(4) of this section, and the analysis in paragraph (b)(3) of this section, together with a clear identification that the 14 CFR part 150 program includes a proposed Stage 2 restriction under part 161.

(c) The FAA determination on the 14 CFR part 150 submission does not constitute approval or disapproval of the proposed Stage 2 restriction under part 161.

(d) An amendment of a restriction may also be processed under 14 CFR part 150 procedures in accordance with this section.

**§ 161.213 Notification of a decision not to implement a restriction.**

If a proposed restriction has been through the procedures prescribed in this subpart and the restriction is not subsequently implemented, the airport operator shall so advise the interested parties. Interested parties are described in §161.209(a).

**Subpart D—Notice, Review, and Approval Requirements for Stage 3 Restrictions**

**§ 161.301 Scope.**

(a) This subpart applies to:

(1) An airport imposing a noise or access restriction on the operation of Stage 3 aircraft that first became effective after October 1, 1990.

(2) An airport imposing an amendment to a Stage 3 restriction, if the amendment becomes effective after October 1, 1990, and reduces or limits Stage 3 aircraft operations (compared to the restriction that it amends) or affects aircraft safety.

(b) This subpart does not apply to an airport imposing a Stage 3 restriction specifically exempted in §161.7, or an agreement complying with subpart B of this part.

(c) A Stage 3 restriction within the scope of this subpart may not become effective unless it has been submitted to and approved by the FAA. The FAA will review only those Stage 3 restrictions that are proposed by, or on behalf

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of, an entity empowered to implement the restriction.

**§ 161.303 Notice of proposed restrictions.**

(a) Each airport operator or aircraft operator (hereinafter referred to as applicant) proposing a Stage 3 restriction shall provide public notice and an opportunity for public comment, as prescribed in this subpart, before submitting the restriction to the FAA for review and approval.

(b) Except as provided in § 161.321, an applicant shall publish a notice of the proposed restriction in an areawide newspaper or newspapers that either singly or together has general circulation throughout the airport noise study area; 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; operators of aircraft based at the airport; potential new entrants that are known to be interested in serving the airport; and aircraft operators known to be routinely providing nonscheduled service that may be affected by the proposed restriction;

(2) The Federal Aviation Administration;

(3) Each Federal, state, and local agency with land-use control jurisdiction within the airport noise study area;

(4) Fixed-base operators and other airport tenants whose operations may be affected by the proposed restriction; and

(5) Community groups and business organizations that are known to be interested in the proposed restriction.

(c) Each notice provided in accordance with paragraph (b) of this section shall include:

(1) The name of the airport and associated cities and states;

(2) A clear, concise description of the proposed restriction (and any alternatives, in order of preference), including a statement that it will be a mandatory Stage 3 restriction; and where the complete text of the restriction, and any sanctions for noncompliance, are available for public inspection;

(3) A brief discussion of the specific need for, and goal of, the restriction;

(4) Identification of the operators and types of aircraft expected to be affected;

(5) The proposed effective date of the restriction, the proposed method of implementation (e.g., city ordinance, airport rule, lease, or other document), and any proposed enforcement mechanism;

(6) An analysis of the proposed restriction, in accordance with § 161.305 of this part, or an announcement regarding where the analysis is available for public inspection;

(7) An invitation to comment on the proposed restriction and the analysis, with a minimum 45-day comment period;

(8) Information on how to request a copy of the complete text of the restriction, including any sanctions for noncompliance, and the analysis (if not included with the notice); and

(9) The address for submitting comments to the airport operator or aircraft operator proposing the restriction, including identification of a contact person.

(d) Applicants may propose alternative restrictions, including partial implementation of any proposal, and indicate an order of preference. If alternative restriction proposals are submitted, the requirements listed in paragraphs (c)(2) through (c)(6) of this section should address the alternative proposals where appropriate.

**§ 161.305 Required analysis and conditions for approval of proposed restrictions.**

Each applicant proposing a noise or access restriction on Stage 3 operations shall prepare and make available for public comment an analysis that supports, by substantial evidence, that the six statutory conditions for approval have been met for each restriction and any alternatives submitted. The statutory conditions are set forth in 49 U.S.C. App. 2153(d)(2) and paragraph (e) of this section. Any proposed restriction (including alternatives) on Stage 3 aircraft operations that also affects the operation of Stage 2 aircraft must include analysis of the proposals in a manner that permits the