§ 47524. Airport noise and access restriction review program

(a) General Requirements.— The national aviation noise policy established under section 47523 of this title shall provide for establishing by regulation a national program for reviewing airport noise and access restrictions on the operation of stage 2 and stage 3 aircraft. The program shall provide for adequate public notice and opportunity for comment on the restrictions.

(b) Stage 2 Aircraft.— Except as provided in subsection (d) of this section, an airport noise or access restriction may include a restriction on the operation of stage 2 aircraft proposed after October 1, 1990, only if the airport operator publishes the proposed restriction and prepares and makes available for public comment at least 180 days before the effective date of the proposed restriction—

1. an analysis of the anticipated or actual costs and benefits of the existing or proposed restriction;
2. a description of alternative restrictions;
3. a description of the alternative measures considered that do not involve aircraft restrictions; and
4. a comparison of the costs and benefits of the alternative measures to the costs and benefits of the proposed restriction.

(c) Stage 3 Aircraft.—

1. Except as provided in subsection (d) of this section, an airport noise or access restriction on the operation of stage 3 aircraft not in effect on October 1, 1990, may become effective only if the restriction has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and approved by the Secretary of Transportation after an airport or aircraft operator’s request for approval as provided by the program established under this section. Restrictions to which this paragraph applies include—

   A. a restriction on noise levels generated on either a single event or cumulative basis;
   B. a restriction on the total number of stage 3 aircraft operations;
   C. a noise budget or noise allocation program that would include stage 3 aircraft;
   D. a restriction on hours of operations; and
   E. any other restriction on stage 3 aircraft.

2. Not later than 180 days after the Secretary receives an airport or aircraft operator’s request for approval of an airport noise or access restriction on the operation of a stage 3 aircraft, the Secretary shall approve or disapprove the restriction. The Secretary may approve the restriction only if the Secretary finds on the basis of substantial evidence that—

   A. the restriction is reasonable, nonarbitrary, and nondiscriminatory;
   B. the restriction does not create an unreasonable burden on interstate or foreign commerce;
   C. the restriction is not inconsistent with maintaining the safe and efficient use of the navigable airspace;
   D. the restriction does not conflict with a law or regulation of the United States;
   E. an adequate opportunity has been provided for public comment on the restriction; and
   F. the restriction does not create an unreasonable burden on the national aviation system.

3. Paragraphs (1) and (2) of this subsection do not apply if the Administrator of the Federal Aviation Administration, before November 5, 1990, has formed a working group (outside the process established by part 150 of title 14, Code of Federal Regulations) with a local airport operator to examine the noise impact of air traffic control procedure changes at the airport.
However, if an agreement on noise reductions at that airport is made between the airport proprietor and one or more air carriers or foreign air carriers that constitute a majority of the carrier use of the airport, this paragraph applies only to a local action to enforce the agreement.

(4) The Secretary may reevaluate an airport noise or access restriction previously agreed to or approved under this subsection on request of an aircraft operator able to demonstrate to the satisfaction of the Secretary that there has been a change in the noise environment of the affected airport that justifies a reevaluation. The Secretary shall establish by regulation procedures for conducting a reevaluation. A reevaluation—

(A) shall be based on the criteria in paragraph (2) of this subsection; and

(B) may be conducted only after 2 years after a decision under paragraph (2) of this subsection has been made.

(d) Nonapplication.— Subsections (b) and (c) of this section do not apply to—

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

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

(3) an intergovernmental agreement including an airport noise or access restriction in effect on November 5, 1990;

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

(5) (A) an airport noise or access restriction adopted by an airport operator not later than October 1, 1990, and stayed as of October 1, 1990, by a court order or as a result of litigation, if any part of the restriction is subsequently allowed by a court to take effect; or

(B) a new restriction imposed by an airport operator to replace any part of a restriction described in subclause (A) of this clause that is disallowed by a court, if the new restriction would not prohibit aircraft operations in effect on November 5, 1990; or

(6) a local action that represents the adoption of the final part of a program of a staged airport noise or access restriction if the initial part of the program was adopted during 1988 and was in effect on November 5, 1990.

(e) Grant Limitations.— Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility fee under section 40117 of this title only if the restriction has been—

(1) agreed to by the airport proprietor and aircraft operators;

(2) approved by the Secretary as required by subsection (c)(1) of this section; or

(3) rescinded.
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In subsection (a), the words “shall provide for establishing” are substituted for “shall require the establishment . . . of” as being more appropriate. The words “in accordance with the provisions of this section” are omitted as surplus.

In subsection (b), the words “proposed after October 1, 1990” are substituted for 49 App.:2153(a)(2)(A) to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words “not in effect on October 1, 1990” are substituted for 49 App.:2153(a)(2)(B) to eliminate unnecessary words. In clause (B), the words “direct or indirect” are omitted as surplus.

In subsection (c)(2)(A)–(D) and (F), the word “proposed” is omitted as surplus. In clause (D), the word “existing” is omitted as surplus.

In subsection (c)(4), the words “that justifies a reevaluation” are substituted for “and that a review and reevaluation . . . of the previously approved or agreed to noise restriction is therefore justified” to eliminate unnecessary words.

In subsection (d)(6), the words “calendar year” are omitted as surplus.