



## Planning Advisory Committee (PAC) Meeting #4

*Pre-meeting informational packet:  
Noise Compatibility Program Background Information*

PRESENTED BY  
Landrum & Brown, Incorporated





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# 1 Federal Laws and Policies and Research Related to Noise

This section presents information regarding noise and land use criteria that may be useful in the evaluation of noise impacts. With respect to airports, the FAA has a long history of publishing noise and land use assessment criteria. These laws and regulations provide the basis for local development of airport noise compatibility plans, analyses of airport impacts, and the enactment of noise compatibility policies. Other agencies, including the United States Environmental Protection Agency (USEPA) and the Department of Defense (DOD), have developed noise and land use criteria. A summary of some of the more pertinent regulations and guidelines is presented in the following sections.

## 1.1 Federal Aviation Noise Abatement Policy

On November 18, 1976, the U.S. Department of Transportation and Federal Aviation Administration (FAA) jointly issued the Federal Aviation Noise Abatement Policy. This policy recognized aircraft noise as a major constraint on the further development of the commercial aviation and established key responsibilities for addressing aircraft noise. The policy stated that the Federal Government has the authority and responsibility to regulate noise at the source by designing and managing flight procedures to limit the impact of aircraft noise on local communities; and by providing funding to airports for noise abatement planning.

## 1.2 Aviation Safety and Noise Abatement Act of 1979

The Aviation Safety and Noise Abatement Act of 1979 (ASNA), which is codified as 49 U.S.C. 47501-47510, set forth the foundation for the airport noise compatibility planning program outlined in 14 Code of Federal Regulations (CFR) Part 150, 14 CFR Part 150 is discussed in the next section. This act established the requirements for conducting noise compatibility planning and provided assistance to and funding for which airport operators could apply to undertake such planning.

## 1.3 14 CFR Part 150

Title 14, Part 150 of the CFR sets forth the standards under which a Part 150 Noise Compatibility Study is conducted. Notably, the preparation of a Noise Compatibility Program (NCP) under 14 CFR Part 150 is a voluntary action by an airport proprietor. The process of preparing the plan is intended to open/enhance lines of communication between the airport, its neighbors, and users. It is the only mechanism to provide for the mitigation of aircraft noise impacts on noise-sensitive surrounding areas that is not directly tied to airfield development or airspace utilization conducted subject to the rules for preparation of an Environmental Impact Statement (EIS) or Environmental Assessment (EA).

The Part 150 Program allows airport operators to voluntarily submit noise exposure maps (NEMs) and NCPs to the FAA for review and approval. An NCP sets forth the measures that an airport operator “has taken” or “has proposed” for the reduction of existing incompatible land uses and the prevention of additional incompatible land uses within the area covered by NEMs.

## 2 Federal Laws and Policies Related to Noise/Land Use Compatibility

The FAA adopted land use compatibility guidelines relating types of land use to airport sound levels in 1985. These guidelines were promulgated in 14 CFR Part 150. These guidelines, reproduced here as **Table 2-1, Land Use Compatibility Guidelines – 14 CFR Part 150**, show the compatibility parameters for residential, public (schools, churches, nursing homes, hospitals, libraries), commercial, manufacturing and production, and recreational land uses.

The Part 150 guidelines are the basis for defining areas potentially eligible for Federal funding through the Airport Improvement Program (AIP). The *Airport Improvement Handbook* states, “Noise compatibility projects usually must be located in areas where noise measured in Day-Night Average Sound Level (DNL) is 65 decibel (dB) or greater.”<sup>1</sup> Federal funding is available at noise levels below 65 DNL if the airport operator (Sponsor) determines that incompatible land uses exist below 65 DNL and the FAA concurs with the Sponsor’s determination.

As shown in **Table 2-1**, all land uses within areas below 65 DNL are considered to be compatible with airport operations. Residential land uses are generally incompatible with noise levels above 65 DNL. In some areas, residential land use may be permitted in the 65 to 70 DNL with appropriate sound insulation measures implemented. This is done at the discretion of local communities. Schools and other public use facilities located between 65 and 75 DNL are generally incompatible without sound insulation. Above 75 DNL, schools, hospitals, nursing homes, and churches are considered incompatible land uses. The information presented in Table 4-1 is meant to act as a guideline. According to 14 CFR Part 150, “Adjustments or modifications of the descriptions of the land-use categories may be desirable after consideration of specific local conditions.”<sup>2</sup>

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<sup>1</sup> FAA Order 5300.38C, Chapter 7, paragraph 706.

<sup>2</sup> 14 CFR Part 150, Part B Noise Exposure Map Development, Section A150.101 Noise contours and land usages, paragraph (c).

**Table 2-1 Land Use Compatibility Guidelines – 14 CFR Part 150**

Yearly Day-Night Average Sound Level (DNL) in Decibels						
Land Use	Below 65	65-70	70-75	75-80	80-85	Over 85
<b>RESIDENTIAL</b>						
Residential, other than mobile homes and transient lodgings	Y	N <sup>1</sup>	N <sup>1</sup>	N	N	N
Mobile home parks	Y	N	N	N	N	N
Transient lodgings	Y	N <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N
<b>PUBLIC USE</b>						
Schools, hospitals, nursing homes	Y	25	30	N	N	N
Churches, auditoriums, and concert halls	Y	25	30	N	N	N
Governmental services	Y	Y	25	30	N	N
Transportation	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N <sup>4</sup>
Parking	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
<b>COMMERCIAL USE</b>						
Offices, business and professional	Y	Y	25	30	N	N
Wholesale and retail -- building materials, hardware, and farm equipment	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
Retail trade, general	Y	Y	25	30	N	N
Utilities	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
Communication	Y	Y	25	30	N	N
<b>MANUFACTURING AND PRODUCTION</b>						
Manufacturing, general	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
Photographic and optical	Y	Y	25	30	N	N
Agriculture (except livestock) and forestry	Y	Y <sup>6</sup>	Y <sup>7</sup>	Y <sup>8</sup>	Y <sup>8</sup>	Y <sup>8</sup>
Livestock farming and breeding	Y	Y <sup>6</sup>	Y <sup>7</sup>	N	N	N
Mining and fishing, resource production and extraction	Y	Y	Y	Y	Y	Y
<b>RECREATIONAL</b>						
Outdoor sports arenas and spectator sports	Y	Y	Y <sup>5</sup>	N <sup>5</sup>	N	N
Outdoor music shells, amphitheaters	Y	N	N	N	N	N
Nature exhibits and zoos	Y	Y	N	N	N	N
Amusements, parks, resorts, and camps	Y	Y	Y	N	N	N
Golf courses, riding stables, and water recreation	Y	Y	25	30	N	N

The designations contained in this table do not constitute a Federal determination that any use of land covered by the program is acceptable 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 the 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.

Key to Table A-1

Y (Yes) Land use and related structures compatible without restrictions.

N (No) Land use and related structures are not compatible and should be prohibited.

NLR Noise Level Reduction (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure

25, 30, 35 Land use and related structures generally compatible; measures to achieve a NLR of 25, 30, or 35 dB must be incorporated into design and construction of structure.

Notes for Table 4-1

1. Where the community determines that residential or school uses must be allowed, measures to achieve outdoor-to-indoor Noise Level Reduction (NLR) of at least 25 dB and 30 dB should be incorporated into building codes and be considered in individual approvals. Normal residential construction can be expected to provide a NLR of 20 dB, thus, the reduction requirements are often stated as five, 10, or 15 dB over standard construction and normally assume mechanical ventilation and closed windows year round. However, the use of NLR criteria will not eliminate outdoor noise problems.
2. Measures to achieve NLR of 25 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas, or where the normal noise level is low.
3. Measures to achieve NLR of 30 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas, or where the normal noise level is low.
4. Measures to achieve NLR of 35 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas, or where the normal noise level is low.
5. Land use compatible provided special sound reinforcement systems are installed.
6. Residential buildings require a NLR of 25 dB.
7. Residential buildings require a NLR of 30 dB.
8. Residential buildings not permitted.

Source: 14 CFR Part 150 Airport Noise Compatibility Planning, Appendix A, Table 1.

## 2.1 FAA Final Policy on Part 150 Noise Mitigation Measures

The FAA issued a final policy to establish a distinction between remedial and preventive noise mitigation measures proposed by airport operators and submitted for approval by the FAA under noise compatibility planning regulations. In the notice of final policy<sup>3</sup> effective October 1, 1998, the FAA stated the following:

- As of October 1, 1998, the FAA will approve under 14 CFR Part 150 only remedial noise mitigation measures for existing incompatible development and only preventative noise mitigation measures in areas of potential new incompatible development.
- The FAA will not approve remedial noise mitigation measures for new incompatible development that occurs in the vicinity of airports.
- The use of AIP funds will be affected to the extent that such used depends on approval under Part 150.

The Airport Noise Compatibility Planning Program (14 CFR Part 150) was established under the ASNA. The Part 150 program allows airport operators to submit NEMs and NCPs to the FAA voluntarily. According to the ASNA, an NCP sets forth the measures that an airport operator has taken or has proposed for the reduction of existing incompatible land uses and the prevention of additional incompatible land uses within the area covered by NEMs.

The ASNA embodies strong concepts of local initiative and flexibility. The submission of NEMs and NCPs is left to the discretion of local airport operators. Airport operators also may choose to submit NEMs without preparing and submitting an NCP. The types of measures that airport operators may include in an NCP are not limited by

<sup>3</sup> FAA Notice of Final Policy, October 1, 1998.



the ASNA, allowing airport operators substantial latitude to submit a broad array of measures—including innovative measures—that respond to local needs and circumstances.

The criteria for approval or disapproval of measures submitted in a Part 150 program are set forth in the ASNA. The ASNA directs the Federal approval of an NCP, except for measures relating to flight procedures: (1) if the program measures do not create an undue burden on interstate or foreign commerce; (2) if the program measures are reasonably consistent with the goal of reducing existing incompatible land uses and preventing the introduction of additional incompatible land uses; and (3) if the program provides for its revision if necessitated by the submission of a revised NEM. Failure to approve or disapprove an NCP within 180 days, except for measures relating to flight procedures, is deemed to be an approval under the ASNA.

Finally, the ASNA sets forth criteria under which grants may be made to carry out noise compatibility projects, consistent with ASNA's overall deference to local initiative and flexibility.

The FAA is authorized, but not obligated, to fund projects via the AIP to carry out measures in an NCP that are not disapproved by the FAA. Such projects also may be funded with local Passenger Facility Charges (PFC) revenue upon the FAA's approval of an application filed by a public agency that owns or operates a commercial service airport, although the use of PFC revenue for such projects does not require an approved NCP under Part 150.

In establishing the airport noise compatibility planning program, which became embodied in 14 CFR Part 150, the ASNA did not change the legal authority of state and local governments to control the uses of land within their jurisdictions. Public controls on the use of land are commonly exercised by zoning. Zoning is a power reserved to the states under the U.S. Constitution. It is an exercise of the police powers of the states that designates the uses permitted on each parcel of land. This power is usually delegated in states enabling legislation to local levels of government.

Many local land use control authorities (cities, counties, etc.) have not adopted zoning ordinances or other controls to prevent incompatible development (primarily residential) within the noise impact areas of airports. An airport noise impact area, identified within noise contours on an NEM, may extend over a number of different local jurisdictions that individually control land uses.

While airport operators have included measures in NCPs submitted under Part 150 to prevent the development of new incompatible land uses through zoning and other controls under the authorities of appropriate local jurisdictions, success in implementing these measures has been mixed.

One or more of the factors hindering effective land use controls may be of sufficient importance to preclude some jurisdictions from following through on the land use recommendations of an airport's Part 150 NCP. When either an airport sponsor's or a non-airport sponsor's jurisdiction allows additional incompatible development within the airport noise impact area. This can, in turn, result in noise problems for the airport operator in the form of inverse condemnation or noise nuisance lawsuits, public opposition to proposals by the airport operator to expand the airport's capacity, and local political pressure for airport operational and capacity limitations to reduce noise. Some airport operators have taken the position that they will not provide any financial assistance to mitigate aviation noise for new incompatible development. Other airport operators have determined that it is a practical necessity for them to include at least some new residential areas within their noise assistance programs to mitigate noise impacts that they were unable to prevent in the first place. Over a relatively short period of time, the distinctions blur between what is "new" and what is "existing" residential development with respect to airport noise issues.

Airport operators currently may include new incompatible land uses, as well as existing incompatible land uses, within their Part 150 NCPs and recommend that remedial noise mitigation measures--usually either property acquisition or noise insulation--be applied to both situations. These measures have been considered to qualify for approval by the FAA under 49 USC 47504 and 14 CFR Part 150. The Part 150 approval enables noise mitigation measures to be considered for Federal funding under the AIP, although it does not guarantee that Federal funds will be provided.

#### 2.1.1.1 Final Policy

Therefore, as of October 1, 1998, the FAA will approve remedial noise mitigation measures under Part 150 only for incompatible development which exists as of that date. Incompatible development that potentially may occur on or after October 1, 1998, may only be addressed in Part 150 programs with preventative noise mitigation measures. This policy will affect the use of AIP funds to the extent that such funding is dependent on approval under Part 150.

Approval of remedial noise mitigation measures for bypassed lots or additions to existing structures within noise impacted neighborhoods, additions to existing noise impacted schools or other community facilities required by demographic changes within their service areas, and formerly noise compatible uses that have been rendered incompatible as a result of airport expansion or changes in airport operations, and other reasonable exceptions to this policy on similar grounds must be justified by airport operators in submittals to the FAA and will be considered by the FAA on a case-by-case basis. This policy does not affect AIP funding for noise mitigation projects that do not require Part 150 approval, that can be funded with PFC revenue, or that are included in FAA-approved environmental documents for airport development.

## 2.2 FAA Airport Improvement Program Handbook

Airport Improvement Program (AIP) Handbook<sup>4</sup> provides guidance and sets forth policy and procedures used in the administration of the AIP. Appendix R, *Noise Compatibility Planning/Projects*, provides guidance and eligibility requirements for airport noise mitigation programs. The following sections provide the general steps for determining eligibility for mitigation under AIP guidelines.

### 2.2.1 General Eligibility Requirements

**Table 2-1, Land Use Compatibility Guidelines** – 14 CFR Part 150, defines the requirements for determining when various land uses are noncompatible with aircraft noise, and therefore potentially eligible for AIP funding. The DNL 65 dB noise contour is the noise level at or above which certain land uses are not considered to be compatible (49 USC § 47502, as defined in Table A-1). The converse is also true – because DNL 65 dB is the Federal threshold for considering certain land uses as compatible, noise-sensitive land uses located outside of the DNL 65 dB noise contour are not considered to be impacted by airport related noise. They are not eligible for mitigation funding unless a lower local standard is formally adopted.

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<sup>4</sup> U.S. Department of Transportation, Federal Aviation Administration, Order 5100.38D, Change 1, February 26, 2019.

## 2.2.2 Pre- and Post-Testing Criteria for Noise Insulation Projects

The AIP Handbook sets forth requirements for testing potentially eligible structures to determine if the interior noise level requirements are met. This guidance includes requirements for testing methodology, equipment, and the determination of an adequate sample size, which could impact program startup and implementation costs and funding reimbursement.

### 2.2.2.1 Interior Noise Level Requirements for Sound Insulation

The 45 dB standard has been adopted by the FAA for interior noise. This is based on 46 Federal Register 8316 (January 26, 1981), which established the interim rule for 14 CFR part 150 and included specific requirements regarding interior noise level. This was further clarified in 1992 by the Federal Interagency Committee on Noise (FICON) findings of 45 dB to be the interior noise level that will accommodate indoor conversations or sleep.

A noise-impacted noncompatible structure must be experiencing existing interior noise levels that are 45 dB or greater with the windows closed to be considered eligible for sound insulation. For residences, the calculation of interior noise level must be based on the average noise level of only the habitable rooms (e.g. living, sleeping, and kitchen areas). For schools, the interior noise level during school hours should be calculated for determination of sound insulation eligibility. Eligibility for noise insulation is limited to classrooms, libraries, fixed seat auditoriums, and educators' offices.

## 2.2.3 Block Rounding

Block rounding refers to expanding the noise mitigation program area beyond the limits of the 65 DNL noise contour to a logical breakpoint (such as a neighborhood boundary, significant arterial surface street, highway, river, other physical or natural barrier or feature). The FAA will review a request for block rounding under a noise mitigation program (or environmental study). If approved under block rounding, the property must meet the interior noise level requirements described in Section A.2.2.2.