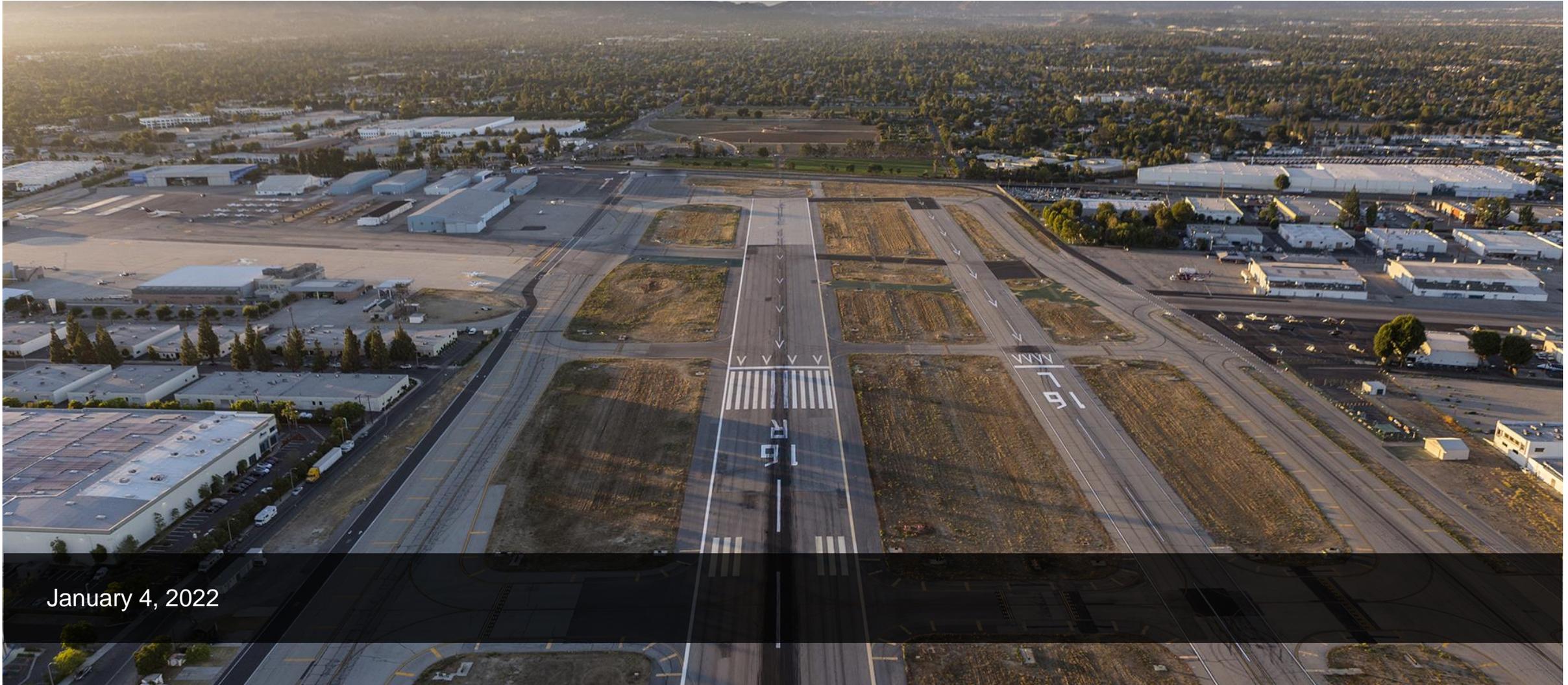


ANCA and 14 CFR Part 161



January 4, 2022

Overview

- **Airport Noise and Capacity Act (ANCA) of 1990**
 - Established a phase out of Stage 2 aircraft greater than 75,000 pounds
 - Established a process for reviewing aircraft noise, airport use, or access restrictions imposed by airport proprietors
- **14 Code of Federal Regulations (CFR) Part 161**
 - Established the federal process for reviewing noise and access restrictions
 - Only airport proprietor's can initiate the process
 - Process is voluntary, but guidance must be followed in order to enact a noise and access restriction

Background on ANCA

- Widespread introduction of jet aircraft in the 1960s substantially increased aircraft noise, as did the growth in airline traffic after the industry was deregulated in 1978
- While all aircraft designs certified after March 3, 1977 had to meet Stage 3 standards, older Stage 2 designs continued to be manufactured until 1988
- While the newer, Stage 3 aircraft were quieter, the long life of jet aircraft (30 or more years) made the transition to a quieter aircraft fleet a slow process
- As a result, Stage 2 aircraft with a 30-year lifespan, comprised of 54% of United States carriers' fleets as of November 1990

Background on ANCA (cont.)

- In the absence of federal requirements to reduce aviation noise nationally, many airports acted on their own to reduce aircraft noise levels locally, creating a patchwork of noise restrictions that made it difficult for aircraft operators to get from Airport A to Airport B
- In 1990, the President signed the Omnibus Budget Reconciliation Act of 1990, which incorporated ANCA
- While ANCA would ensure the early phase out the Stage 2 aircraft, it would also protect aircraft operators' investment in Stage 3 (and higher) aircraft by requiring airport proprietors to demonstrate that further restrictions were justified to eliminate incompatible land use at their airport

Background on ANCA (cont.)

Requirement	Federal Aviation Administration (FAA) Implementation
FAA to complete phase-out of Stage 2 aircraft over 75,000 pounds by December 31, 1999	FAA promulgated Part 91 amendment (1991)
FAA to establish regulations regarding analysis, notice, and approval of airport noise and access restrictions	FAA implemented through 14 CFR Part 161 (1991)
Required FAA to develop a national aviation noise policy	Draft “Aviation Noise Abatement Policy 2000” published by FAA on July 14, 2000, but never finalized
Grandfathered all airport noise and access restrictions that existed prior to November 1, 1990	No FAA action required beyond assistance in confirming grandfathered restrictions

Grandfathered Airport Noise and Access Restrictions

- ~60 U.S. airports claim to have adopted formal time-of-day, and/or noise-level-based operating “restrictions,” which can be based on published or measured noise levels
- ~200 U.S. airports claim to have formal noise abatement operating procedures; e.g., noise abatement flight corridors, runway use programs, or departure profiles, etc.
- Many of these are misleading, as some “restrictions” are actually voluntary measures
- There are about a dozen airports with actively enforced restrictions that were grandfathered under ANCA
 - VNY, BUR, BWI, DCA, JFK, LGB, MYF, SAN, SJC, SMO, SNA, and TEB
- Grandfathered noise restrictions that are made more restrictive are considered by the FAA to be new restrictions under ANCA and must be evaluated using the 14 CFR Part 161 process

VNY ANCA History

- 1981: Los Angeles City Council (LACC) passed “The Basic Curfew Ordinance”, which is also referred to as the Van Nuys Noise Abatement and Curfew Regulation
- 1997: LACC passed “The Additional Curfew Hour” regulation amendment
- 2000: LACC passed “The Non-Addition Rule” regulation amendment
- 2005: Board of Airport Commissioners (BOAC) approved contract to conduct 14 CFR Part 161 study (~\$6.5 Million)
- 2006: BOAC re-adopted resolution approved in 1990 initiating a seven-year phase out of Stage 2 aircraft that existed prior to passage of ANCA
- 2006: City Council/Mayor approve an Airport Plan with additional 14 CFR Part 161 alternatives (including phase out of Stage 2 / noisier aircraft)

VNY ANCA History (cont.)

- 2006: BOAC directed Los Angeles World Airports (LAWA) to pursue a “dual track method” for phase out Stage 2 aircraft in shortest possible time by pursuing:
 - A seven-year phase out ordinance via “grandfathered” status
 - An immediate ban via the 14 CFR Part 161 process
- 2009: FAA recognized the grandfathered status of VNY’s phase out
- 2009: BOAC approved a new ordinance to phase out operation of noisiest jets based at VNY by 2016 and sent it to LACC for adoption

VNY ANCA History (cont.)

- 2009: FAA issued Record of Approval (ROA) for the 14 CFR Part 150 Noise Compatibility Program (NCP) study
 - The NCP contained 35 proposed measures; FAA approved 15 measures and disapproved 20
 - ROA detailing the approved/disapproved measures:
https://www.faa.gov/airports/environmental/airport_noise/part_150/states/ca/media/roa_california_101609.pdf
 - Seven of 20 that were rejected as violating ANCA if implemented without 14 CFR Part 161 analysis:
 - Maximum daytime noise limits, limit on Stage 3 jets, expansion of curfew, cap/phase-out of helicopters, incentives and disincentives in rental rates, incentives and disincentives in landing fees, and expansion of fines
- 2010: LACC adopted “The Noisier Jet Phase Out” regulation amendment

VNY Grandfathered Restrictions

- The Van Nuys Noise Abatement and Curfew Regulation includes fines for violations ranging from \$750 to \$3,500 and provision that may prevent violators from using airport for up to three years
- Originally enacted to prohibit old and noisy jets (certification takeoff noise levels greater than 74 dBA) from departing during nighttime hours of 10 p.m. to 7 a.m.
 - Stage 3 aircraft are not affected by the curfew until 11 p.m.
 - Restricts pilot training operations from 10 p.m. and 7 a.m. during summer months and 9 p.m. to 7 a.m. during all other months
 - Prohibits engine maintenance run-ups between 7 p.m. and 7 a.m.
 - Helicopters, medical/government emergency flights, and military aircraft are exempt

VNY Grandfathered Restrictions (cont.)

- “The Non-Addition Rule” regulation amendment:
 - Prohibits any additional Stage 2 aircraft with certified takeoff noise levels exceeding 77 dBA from being based at VNY
 - Grandfathered aircraft were permitted to operate through 2010, but are now prohibited
- “The Noisier Jet Phase Out” regulation amendment:
 - Approved to phase out noisier jet aircraft at VNY by 2016
 - Phase out first restricted aircraft with certified takeoff noise levels at or above 85 dBA and gradually extended to all aircraft with certified takeoff noise levels at 77 dBA or higher

VNY Grandfathered Restrictions (cont.)

- The VNY Ordinance is still in effect and is more restrictive than the national phase out of all Stage 2 aircraft established by Congress in the FAA Modernization and Reform Act of 2012
- Very few jets operating at VNY today are affected by the ordinance
 - Most aircraft meet and/or are certified at levels far below the maximum 74 dBA requirement and may fly in and out of VNY at any time
 - The recently implemented Quieter Nights Program encourages jet aircraft operators to voluntarily avoid flights at VNY between 11 p.m. and 7 a.m. whenever possible
 - A mandatory restriction on nighttime operations is preempted by ANCA

14 CFR Part 161: Overview

- The FAA implemented 14 CFR Part 161 in 1991 in response to the ANCA requirement for the FAA to establish regulations regarding analysis, notice, and approval of airport noise and access restrictions
- 14 CFR Part 161 identifies a comprehensive technical analysis that airport proprietors must perform when proposing any noise or access restrictions on aircraft operating at their airport
- The product of the 14 CFR Part 161 study is an application to the FAA requesting a waiver of the federal preemption of local airport noise and access restrictions and authorization to enact and implement the proposed restriction

14 CFR Part 161: Overview (cont.)

- Encourages voluntary agreements to control aircraft noise
- Airport proprietor imposed restrictions must be considered a last resort when all other efforts have failed to eliminate incompatible land uses
- Identifies three types of restrictions:
 - Negotiated restrictions
 - Stage 2 aircraft restrictions (over 75,000 pounds)
 - Became moot as of January 1, 2016 when a nationwide phase out of all (regardless of weight) Stage 2 aircraft was completed under the FAA Modernization and Reform Act of 2012
 - Stage 3 aircraft restrictions (over 75,000 pounds)

14 CFR Part 161: Study Requirements – Restrictions

- Airport proprietors that propose restrictions must meet six conditions established by ANCA for approval by the FAA:
 1. Be reasonable, not arbitrary, and not discriminatory
 2. Not create an undue burden on interstate or foreign commerce
 3. Maintain safe and efficient use of the navigable airspace
 4. Not conflict with any existing Federal statute or regulation
 5. Provide adequate opportunity for public comment
 6. Not create an undue burden on the national aviation system
- For a proposed restriction to be approved, all six conditions **MUST** be met

14 CFR Part 161: Study Requirements – Contents

- The 14 CFR Part 161 study must use the noise exposure calculation methodology and land use compatibility criteria established in 14 CFR Part 150
- The 14 CFR Part 161 study must use the Day-Night Average Sound Level (DNL). In California, the Community Noise Exposure Level (CNEL) metric is accepted by the FAA
- Information required to demonstrate that each condition is met is established by 14 CFR 161.305 which includes:
 - Complete text of proposed rule
 - Anticipated sanctions
 - Noise contours developed in accordance with 14 CFR Part 150
 - Adequate environmental review under the National Environmental Policy Act (NEPA)

14 CFR Part 161: Study Requirements – Contents (cont.)

- Information required to demonstrate each condition is met is established by 14 CFR 161.305 which includes: (cont.)
 - Cost-benefit analysis demonstrating that potential benefits have a reasonable chance to exceed the potential costs
 - Effect of proposed restriction on operations, including the number of operations effected for each air carrier
 - Additional operation costs associated with the restriction, including potential discontinuation of service and lost operating revenue
 - Estimation of benefits from reduced sound insulation program construction, number of people removed from noise contours, and improved productivity (either workforce or educational)
 - Analysis of effects of the restriction on airspace surrounding airport

14 CFR Part 161: Study Requirements – Contents (cont.)

- Information required to demonstrate each condition is met is established by 14 CFR 161.305 which includes: (cont.)
 - Demonstration of consistency with Grant Assurances (anti-monopolistic practices)
 - Adequate opportunity for public comment on proposal
 - Demonstration of no adverse effect on airport system capacity
 - Additional requirements as specified in the regulation
 - Depiction of all measures taken to achieve land use compatibility
 - Evidence that other remedies are infeasible or would be less cost-effective; including why other measures were rejected

14 CFR Part 161: Potential Roadblocks

- FAA has provided no guidance for the cost-benefit analysis
- Aviation interests, a key source of critical data, are not required to assist the study effort
- FAA has made its opposition to noise and access restrictions clear
- FAA does not consider it to be a benefit to restrict operations at one airport because it assumes that the aircraft operations will move to another airport. Therefore, there is no net reduction in noise

14 CFR Part 161: Summary of Studies Completed to Date

- In the 30 years since 14 CFR Part 161 was promulgated, 24 Part 161 studies have been developed at 21 airports:
 - Some were abandoned, some resulted in purely voluntary agreements
 - The FAA has only approved **ONE** restriction through 14 CFR Part 161:
 - Naples Airport (APF) restricted Stage 2 aircraft under 75,000 pounds after a legal challenge
 - Two local and recent “failed” efforts were at Hollywood Burbank Airport (BUR) and Los Angeles International Airport (LAX)
 - Both multi-million dollar efforts (\$7+ million at BUR and \$3+ million at LAX) resulted in the FAA acceptance of the application as “complete,” but FAA disapproved the proposed restrictions based on the failure to meet all of the statutory conditions

ANCA and 14 CFR Part 161: Summary

- ANCA and 14 CFR Part 161 were established to end the proliferation of local aircraft noise restrictions at airports throughout the United States
- The approach included a phase out of the noisiest aircraft at that time (Stage 2 greater than 75,000 pounds) in exchange for a limitation on airport proprietors' ability to enact local noise restrictions on the remaining, quieter (Stage 3) aircraft
- Grandfathered noise restrictions that are made more restrictive would trigger a 14 CFR Part 161 analysis and submission to the FAA
- 14 CFR Part 161 was not intended to make it easy for airport proprietors to enact restrictions, but rather set a very high bar for doing so

Common Community Suggestions

- Phase-out the noisiest Stage 3 jets at VNY
- Use the existing grandfathered Van Nuys Noise Abatement and Curfew Regulation to implement a strict curfew that applies to current aircraft
- Charge different landing fees based on the noise levels for each aircraft type
- Ban larger jet aircraft from VNY

Questions?