



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Associate Administrator
for Airports

800 Independence Ave., SW.
Washington, DC 20591

DEC 11 2008

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Ms. Gina Marie Lindsey
Executive Director, Los Angeles World Airports
Los Angeles International Airport
1 World Way
Los Angeles, CA 90045

Dear Gina Marie:

When I spoke with you last Tuesday, I shared the Federal Aviation Administration's concerns about a proposed restriction at Van Nuys Airport (VNY). The FAA has conducted a preliminary review of the city of Los Angeles' September 2008 Environmental Impact Report (EIR) "Van Nuys Airport Noisier Aircraft Phaseout." The EIR states the city of Los Angeles will impose a decrease, in four phases, of the maximum takeoff noise levels at VNY. This restriction would take effect January 1, 2009.

This raises issues about the city's compliance with its obligations under both the Airport Noise and Capacity Act of 1990 (ANCA) and statutory grant assurances. Our last written communication with the city (letter of April 17, 2000 from Woodie Woodward to Breton K. Lobner) provided the standard for ANCA grandfathering provisions:

"As we have previously notified airport proprietors, a proposal would have to be essentially the same as originally proposed or less restrictive than originally proposed to retain its grandfather status under ANCA. If the city elects to reconsider the proposed 1990 "phase-out" rule along these lines, then the FAA would review such a proposal together with the city's reasons that would support a finding that the proposal qualifies for grandfathering and is indeed essentially unchanged or less restrictive."

The city's originally proposed phase-out rule included a phase out of aircraft exceeding certain takeoff noises levels. The city proposed to carry out the rule in four phases over seven years. At the end of the period, aircraft with certified takeoff noise levels of 77 A-weighted decibels or higher would be restricted from operating at VNY. In our communications with city representatives over the years, we have clearly explained how ANCA applies at VNY. VNY restrictions proposed before enactment of ANCA but not in effect may be applied only to Stage 2 aircraft.

Consistent with 49 U.S.C. 47526, the FAA needs information to support the city's position that the phase out you propose to implement in January 2009 is grandfathered under ANCA. While the EIR's description of the phase-out rule appears to support the city's assumption that a phase out could be grandfathered, under ANCA, it may only be applied to Stage 2

aircraft. Appendix A of the EIR indicates the phase out would be implemented in full, regardless of whether components are grandfathered. Before the city can implement the restriction with respect to Stage 3 aircraft, it must meet 14 Code of Federal Regulations Part 161 requirements.

Our past communications with city officials also have clearly addressed its Federal grant obligations. Besides ANCA, airport noise and access restrictions must meet standards under pre-existing Federal law, including Federal grant and any surplus property obligations. Besides other assurances, a restriction must be fair and reasonable, may not be unjustly discriminatory, and may not impose an undue burden on interstate or foreign commerce.

The city should examine these obligations as part of its local process to consider adoption of the phase-out rule. We need information to support a positive finding under the grant assurance provisions. If the city is found to be in noncompliance under Part 161 subpart F or under other obligations, it may affect the eligibility of the city to continue to receive Federal grants and passenger facility charges at all airports owned by the city.

We recommend the city take no action to enact the "Van Nuys Airport Noisier Aircraft Phaseout" until we can get together to resolve these concerns. We are prepared to meet with you face-to-face or by telephone to discuss how LAWA and the city can remain in compliance with ANCA and other Federal law.

Let us know who on your staff to contact so we can work through these issues. If you would prefer, you can have your representative contact Ralph Thompson, Assistant Manager, Planning and Environmental Division, or Vicki Catlett of his staff to set up a meeting or telephone conference. Their telephone number is (202) 267-3263.

I look forward to working with you to resolve these issues.

Sincerely,



Catherine M. Lang
Deputy Associate Administrator
for Airports