



September 28, 2023

Filed electronically through www.regulations.gov

Docket number FAA-2023-0855

Mr. Donald Scata

Office of Environment and Energy

Federal Aviation Administration, DOT

RE: Comments on the Federal Aviation Administration's Review of the Civil Aviation Noise Policy, Docket ID No. FAA-2023-0855, 86 Fed. Reg. 26641 (May 1, 2023)

Dear Mr. Scata:

The Town of Los Altos Hills and Cities of East Palo Alto, Los Altos, Menlo Park, Mountain View, and Palo Alto, California (the Cities) appreciate the opportunity to submit these comments regarding the Federal Aviation Administration's (FAA) Review of the Civil Aviation Noise Policy. The Cities are at the epicenter of the aircraft noise problems of the 21st Century. They are located near three large commercial service airports – SFO, SJC, and OAK – and are directly beneath the primary arrival paths into SFO, as well as directly beneath the primary arrival path into SJC when that airport is operating in reverse flow. Recent changes in arrival procedures into SFO have routed even more aircraft over the Cities significantly impairing the health and quality of life of our residents.

The Cities are also near several general aviation airports, and general aviation aircraft and helicopters regularly and frequently fly over the Cities at low altitudes. Palo Alto is the sponsor of Palo Alto Airport (PAO) and is under considerable pressure to address noise issues from general aviation operations at PAO. The Cities are also located in the heart of Silicon Valley where the ongoing development of drones, UAMs, AAM vehicles, and other new aviation technologies foretell entirely new types of aircraft and associated noise in the very near future. All of that is to say that the Cities are uniquely positioned to comment on the inadequacies of current FAA noise policies, laws, and regulations and how a new noise policy can better address the adverse impacts of aircraft noise.

At the outset, the Cities cannot overstate how important it is for the FAA to adopt a new noise policy, and to seek changes to existing laws, in order to effectively address the noise problems residents of our communities are experiencing. In simple terms, the existing noise policy and associated laws and regulations do not effectively address the real noise problems people near airports and beneath aircraft flight paths actually experience. The Cities join with numerous other

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communities and organizations adversely affected by aircraft noise to urge the FAA to take advantage of a new noise policy to adopt bold new strategies to address today's noise problems.

By way of context, the current suite of noise laws and policies is almost 50 years old. Those laws and policies – including the FAA's 1976 Noise Policy, the Airport Safety and Noise Act of 1980 (ASNA), and its Part 150 regulations, and the Airport Noise and Capacity Act of 1990 (ANCA), and its Part 161 regulations – were enacted to address the noise problems of the 1970s and 1980s when the predominant issue was the prevalence of very loud Stage 1 and Stage 2 aircraft, and severe noise impacts close to airports.

It is clear, however, that the old suite of laws and policies are not addressing today's noise problems, which are very different and demand different solutions. Although individual aircraft are quieter, overall numbers of aircraft operations have increased. Moreover, through the implementation of the suite of NextGen flight procedures, the FAA has changed flight patterns near many airports in a way that concentrates more aircraft into narrow flight paths. Similarly changes in operations at general aviation airports, including increases in operations by private jets, helicopters, and repetitive "touch-and-goes" has created noise impacts that the FAA does not recognize as actionable.

The result has been devastating to communities like the Cities that lie beneath these concentrated flight paths because we are subjected to a near-constant barrage of noise from repeated overflights at low altitude. Rather than experiencing relatively loud events a relatively few times a day (or only during short peak times) communities now experience the noise from an almost constant stream of aircraft directly overhead – as if there were a train line constantly running in the sky. The problem is exacerbated further by the generally quiet nature of these suburban communities now subject to constant aircraft noise.

Two points in particular underscore the inadequacy of current policies. First, the FAA has lost a number of recent lawsuits because its environmental review of new flight procedures has been inadequate. Existing FAA policy and practice is not accounting for the actual impacts of aircraft noise.

Second, and more fundamentally, the Neighborhood Environmental Study (NES) makes clear that people are highly annoyed at noise exposure levels far below the FAA's DNL 65 standard and far below any level that the FAA considers significant. FAA policy, including its choice of a noise metric and threshold of significance clearly do not accurately reflect how aircraft noise actually impacts real people.

These fundamental failures of historic noise policies and laws demand a bold response from the FAA to develop a new noise policy that reflects today's noise issues and takes full advantage of today's technologies and almost 50 years of experience to implement effective solutions. Although the Cities applaud the FAA for undertaking this comprehensive review of its policy, the Cities urge the FAA to use this policy review as an opportunity to reevaluate its historic approach to aircraft noise and implement a new policy that provides a path to meaningful solutions to very real noise problems.

The Cities provide responses to many of the FAA specific questions below, but believe that a new noise policy must incorporate the following core principles:

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- **Regular Review and Update.** The new noise policy should include a mechanism for regular review and update to assure that the policy responds to current problems and implements current solutions. This is particularly important given emerging drone, UAV, and AAM technologies whose future impacts cannot be fully predicted today. The FAA cannot allow policy to remain unchanged for almost 50 years as it has done since 1976.
- **Acknowledge Noise Impacts Below DNL 65.** The noise policy must acknowledge that aircraft noise has harmful effects well below the DNL 65 threshold and further acknowledge that new metrics and thresholds need to be developed that will allow the FAA, airport sponsors, and communities to accurately identify harmful noise impacts and adopt meaningful solutions to those impacts.
- **Implement a System of Noise Metrics and Thresholds.** The noise policy must incorporate a *system* of noise metrics and thresholds that allow the FAA and other stakeholders to quantify, understand, and address how different kinds of operations can impose different noise impacts on different communities. DNL may be an appropriate metric for certain purposes, for example in areas close to a large commercial service airport, but it fails to adequately define noise problems for communities farther from an airport or account for noise impacts from relatively quieter, repetitive operations from general aviation airports. In those areas a metric that accounts for the number of operations, the frequency of operations, and the level of noise above background or ambient noise would better quantify the noise impact of flight procedures. To assure transparency and confidence in this system, the FAA should engage an independent, technical panel, perhaps sponsored by the National Academy of Sciences, to recommend an appropriate system of noise metrics and thresholds.
- **Assure Community Involvement in Flight Procedure Changes.** The FAA must include representatives of affected communities in the entire process of developing new flight procedures. That engagement will lead to flight procedures that minimize adverse impacts on communities and will provide greater transparency to the process and greater community confidence in the final outcome.
- **Assure Community Involvement in Noise Studies.** Communities affected by aircraft noise from a nearby airport must have representation in Part 150 Studies and similar noise studies, even if those communities are beyond the DNL 65 contour. Those communities should be eligible to receive noise monitors and other mitigation measures.
- **Provide for Review of Recent Flight Procedure Changes.** Because the NES, litigation, and ongoing controversy has revealed the FAA historic assessment of the noise impacts from NextGen flight procedures to be inadequate, the new noise policy should define a process to reassess the impacts of recent changes to flight procedures and make additional changes as appropriate to redress those impacts.
- **Increased Local Control.** The new noise policy should allow a greater amount of local control over some aspects of aircraft noise. In particular, local communities and airport sponsors should have greater authority to establish local noise ordinances to regulate local general aviation operations, civil rotorcraft (e.g., helicopters and drones) operations below 2000 ft, and to provide incentives for aircraft operators to use quieter aircraft or use noise abatement flight procedures.

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- **Identify Legislative and Regulatory Changes.** Because current statutes and regulations do not address today’s noise problems, the new noise policy should identify changes in those laws and regulations necessary to fully implement the FAA’s new policy. *The FAA should not allow current laws to limit its policy objectives.* Changes in ASNA and ANCA, and the associated Part 150 and Part 161 regulations, may be advisable. The new noise policy should clearly identify policies that would require changes in current law and include a blueprint for the FAA to pursue appropriate changes in the law.
- **Expert Panel.** The FAA should enlist an expert panel from the National Academies of Sciences to review the body of literature on the impacts of aircraft noise, including health impacts, to prepare an independent, unbiased, and peer-reviewed consensus report to recommend a system of noise metrics and thresholds *based on the science.*

Those general principles, as further explained in our responses to some of the FAA’s specific questions, provide a framework for a noise policy that would allow the FAA to recognize the true extent of how aircraft noise harms residents beneath flight paths and to implement meaningful ways to reduce, abate, and mitigate those impacts.

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Responses to Specific Question Posed by the FAA.

**Question 1. Vehicle Type; and
Question 2. Operations of Air Vehicles**

As discussed in greater detail below in response to Questions 3 (DNL), 4 (Averaging), and 5 (Decisionmaking Noise Metrics), the FAA should address noise from *all* air vehicles and from *all* phases of operation. Simply stated, all noise from all sources has the potential to impose adverse impacts, particularly when considered together with noise from other air vehicles. The FAA should consider metrics and thresholds that include noise from all sources and all phases of operation to assure that all noise impacts are accounted for, disclosed, and addressed. The FAA should consider and develop metrics that account for the fact that certain operations, including in particular rotorcraft and repetitive local general aviation operations, adversely impact residents even when the DNL levels fall below levels the FAA has historically considered “significant.” All air vehicles and all phases of operation have the potential to cause adverse impacts and the FAA should adopt a system of metrics to account for that.

**Question 3. DNL; and
Question 4. Averaging**

The DNL metric is not appropriate for communities like the Cities because it fails to measure or report the noise impacts residents experience. In short, an annual average metric fails to account for the harms imposed by numerous and almost continuous overflights. A few key points illustrate this point:

- DNL is an average noise level that neither counts the number of aircraft nor captures how people experience noise on the ground. People do not hear average noise. People

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experience the noise of each individual event when the noise exceeds the ambient noise level. Nobody experiences DNL, and its use of logarithmic scales and decibels that cannot be averaged like arithmetic values only further confuse residents and underscore that DNL does not reflect what they experience. Even if DNL were calculated using a different time period (daytime, nighttime, peak hour, 4-hour, average annual day, etc.), its averaging methodology makes it an inadequate decisionmaking metric.

- DNL does not disclose the number of noise events or the noise level for each event. 10, 100, or 1000 aircraft can have the exact same DNL value even though 10, 100, or 1000 aircraft create very different noise experiences. DNL does not adequately represent the impacts of numerous and frequent flights, sometimes less than 90 seconds apart. An effective noise metric would be based on the number of overflights, the peak noise of each event, and how that noise compares to the background noise.
- By using an Average Annual Day, DNL underestimates the real impacts of daytime overflights, including during peak periods, and does not reflect seasonality or changes in runway configurations. Using an Average Annual Day-based DNL for one procedure/vector to or from one airport only does not represent the noise experienced by residents that are affected by multiple airports, different air vehicles using different procedures/vectors to and from multiple origins and destinations.
- DNL is calculated using the Sound Exposure Level (SEL), which is a metric that people neither understand nor hear. People hear instant noise, including peak noise (L_{max}). As discussed in greater detail below, the FAA should base a new metric on L_{max} to better reflect what adversely impacts people.

To address these shortcomings with DNL, the Cities urge the FAA to develop and implement new metrics that better measure and report how aircraft noise impacts real people. To assure objectivity and a comprehensive, science-based approach, the FAA should convene an expert panel, perhaps sponsored by the National Academy of Sciences, to develop a system of noise metrics rather than continuing to rely solely on DNL for decisionmaking. The Cities urge the FAA to include in its new noise policy some basic criterion to guide that work so the final product provides the appropriate information to guide FAA decisionmaking. A new noise metric should:

- **Compare aircraft noise to ambient noise levels.** Evaluating noise impacts relative to ambient noise is typical in assessing other forms of transportation noise, such as rail and highway noise, and the FAA should adopt the same approach for aircraft noise. Measuring noise levels above ambient noise will better reflect the degree to which aircraft noise interrupts and interferes with people's daily activities.
- **Count and add individual noise events and do not use averages.** As discussed above, people do not hear or experience averages. A decisionmaking metric should reflect noise as experienced by people.
- **Count noise events based on a peak noise level L_{max} (with revised nighttime penalties) that exceeds ambient noise.** The L_{max} reflects the noise that has the greatest potential to be harmful, and should be the basis to evaluate noise impacts. L_{max} should be measured or calculated using both C-weighting and A-weighting because some air

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vehicles, including subsonic planes, create low-frequency vibrations that are not captured by A-weighting decibels even though they can be felt by people.

- **Calculate noise levels for the peak air traffic day of the year instead of an annual average day.** Over the course of a year, air traffic may vary by season, runway usage, and other factors. An Average Annual Day (AAD) does not account for such variations, masks the different noise levels experienced by residents, and underestimates the true impact of overflights. Again, people do not experience or hear an average. In contrast, the peak day represents the highest impact in a given year and therefore provides a better basis to understand how noise actually impacts people and to develop mitigation strategies that will address the actual noise impacts. Further, as air traffic volumes continue to increase, using a peak day provides a better basis to mitigate future impacts as well as current impacts.
- **Include impacts from all air vehicles, operations, and activities.** Count and include *all* air vehicles, from commercial aviation, general aviation, UAV/AAM, or military operations, and *all* measurable locations (e.g., one or more flight paths –procedure or vectors– from all airports, helipads, launch pads, drone pads), for *all* air vehicle operations (from ground operations, taxiing, take-off, en route, landing, as well as specialized activities such as hovering, flight training, and air shows) that impact an area. That would allow the FAA and communities to understand the total noise environment and the impact of changes on that environment.
- **Revise nighttime penalties in appropriate metrics to reflect the substantial noise impacts of nighttime flights.** The current way that DNL weights nighttime operations does not capture the severity of the noise impacts at night. The FAA should investigate how to weight nighttime flight activities to reflect the actual experiences of people, including how noise affects people differently at different times of night and how repetitive overflights as opposed to a few widely spaced overflights may have a particularly severe impact at night by preventing people from falling asleep and/or preventing people from getting a full night's sleep. Weighting should reflect how the cadence, pattern, timing, and volume of overflights actually affect peoples' sleep patterns.

By counting and reporting the number and level of disturbances above ambient levels, a new noise metric would better predict impacts and annoyances for communities experiencing many and frequent overflights from *all* types of operations, including commercial service aircraft, general aviation aircraft, rotorcraft, and emerging air vehicle technologies. The NES data showed a strong correlation between N-Above 50 dB (NA50) and the level of annoyance. Although the FAA did not release the NA50 NES data as part of the NES, the FAA should do so now and further analyze the NA50 NES data in order to better inform its development of a new system of noise metrics.

Using the number of air vehicles and the delta between the air vehicles' peak noise and ambient noise is a much more accurate representation of the noise experienced by residents than DNL and would support better FAA decisionmaking by better reflecting the noise impacts that actually disturb people by disrupting their daily lives.

Question 5. Decisionmaking Noise Metrics; and

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Question 7. NEPA and Land Use Noise Thresholds Established Using DNL or Another Cumulative Noise Metric

For the reasons discussed in response to Questions 3 and 4, the Cities strongly believe that DNL should not be the primary noise metric for FAA decisionmaking and that DNL 65 should not be the threshold for FAA decisionmaking. As the NES underscores, the FAA's current DNL 65 one-size-fits-all model is not appropriate for today's noise problems. Fundamentally, the DNL 65 standard fails the ASNA requirement to have "a highly reliable relationship between projected noise exposure and surveyed reactions of people to noise."

Even if there is a role for DNL in the future, the DNL 65 threshold is clearly inadequate. Any DNL threshold must reflect the NES results and must align with the World Health Organization aircraft noise guidelines from October 2018: average noise exposure of 45 dB Lden and night noise exposure below 40 dB Lden.¹ Indeed, as long ago as 1974, and without the benefit of the NES, the EPA recommended that the DNL threshold be 55 dB or lower for outdoors.² To the extent the FAA retains DNL, the FAA should lower the DNL threshold as suggested by the NES. For example, in the NES curve, 12.3% of people are Highly Annoyed at 46 dB, which compares to the Schultz curve in which 12.3% of people were annoyed at 65 dB.

In developing a suite of metrics and thresholds, the FAA should ask an expert panel to consider whether different metrics are appropriate for different circumstances, such as:

- Evaluating noise impacts in communities very close to airports.
- Evaluating noise impacts in communities below arrival and departure paths.
- Evaluating noise impacts in communities affected by changes in flight procedures.
- Evaluating noise impacts from nighttime operations.
- Evaluating noise impacts in wilderness or historic areas.
- Evaluating noise impacts from general aviation operations, including in particular repetitive operations.
- Evaluating noise impacts from helicopters and other rotorcraft.
- Evaluating noise impacts from new aircraft models or types (including helicopters, UAV, and AAM vehicles).

Each of these different scenarios may require a different metric and/or a different threshold to measure how noise will affect residents. Moreover, it may be appropriate to use more than one metric to gain a more complete understanding of noise impacts. For example, DNL may be appropriate to predict an overall level of community annoyance, but different metrics applying different thresholds will better illustrate how specific operations will impact people on the ground.

¹ Lden –Day Evening Night Sound level, is the average sound level over a 24-hour period with a 5 dB evening penalty between 7 pm and 10 pm and a 10 dB nighttime penalty between 10 pm and 7 am.

² Office of Noise Abatement and Control of the Environmental Protection Agency *Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety* (March 1974).

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The FAA should leverage multiple metrics and thresholds to inform its decisionmaking rather than rely on a single, one size-fits-all metric and threshold.

That approach also better complies with ASNA, which requires a **single system** of noise measurement, not a single metric. Although the FAA has relied on a single metric in the past, a new noise policy will allow the FAA to adopt a true system of noise measurement that better reflects the different ways that different noise events affect people and that better fulfills Congress's direction to create a single system of noise metrics.

Finally, as discussed in response to Question 11 (Literature Review), the FAA should incorporate the findings of the NES as well as the growing body of research identified in the Background tab in the Docket, as well as ongoing research into the health impacts of aircraft noise, into its new system of noise metrics and thresholds. Because that body of knowledge requires expertise in multiple disciplines, including most importantly public health, the FAA should engage the National Academies of Sciences, including the National Academies Division of Medicine, to prepare an independent, unbiased, and peer-reviewed consensus report to recommend a system of noise metrics and thresholds based on the science and health impacts. DNL, and the reliance on the Shultz Curve regarding annoyance, simply does not capture the full range of impacts and does not allow the FAA and affected communities to fully understand how aircraft noise will affect people exposed to aircraft noise. Community annoyance is an important factor to consider, but it is not the only factor. The FAA should leverage the expertise of the National Academies and the available literature.

Question 6. Communication

Improving how the FAA communicates information about noise impacts is absolutely critical to the success of any new noise policy. People affected by noise need to understand how proposed changes in the noise environment will affect them, and the FAA needs to explain those impacts in a clear and relevant manner.

Communication regarding noise impacts begins with developing a system of noise metrics that realistically describe noise impacts in a manner the average person can understand. For all of the reasons discussed above and as made clear in the NES, DNL tends to obscure and understate noise impacts. The FAA's reliance on DNL has undermined the public's confidence in how the FAA reports and describes noise. *Developing a system of noise metrics that describes how noise will actually affect people is critical to how the FAA communicates about aircraft noise.*

In addition, the Cities believe the FAA should develop a communications policy that allows the FAA and airports to **provide information about noise proactively**, in a **timely** manner, and that represents the true impacts of noise on communities. Such a policy must include the following key elements:

- Identify the specific cities, towns, and areas that will be impacted. Do not rely on navigation charts or route maps that do not label or reference city boundaries and populated areas.
- Describe how each city, town, or area is potentially impacted using one or more metrics that describe how aircraft noise will impact each community. As discussed above, the FAA should clearly explain how a new procedure or development will change the existing noise environment based on noise above background levels, number of new operations, and the

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altitude and path of new operations, together with all other operations in the area, in order to describe the total change in the noise environment.

- Assure that the public, and the state and local governments, in impacted areas are informed of potential changes in flight procedures *before* flight procedures are designed and finalized and certainly *before* those procedures are implemented. The public should not be surprised by substantial changes in flight patterns or noise impacts, and the FAA should not make decisions without gaining an understanding of how new flight procedures and airport development will impact surrounding communities. The FAA should not rely solely on closed groups, such as roundtables, noise forums, or consultations with aviation stakeholders to develop and communicate potential changes. Webinars and other virtual platforms provide an inexpensive way to reach a broader audience.
- Communicate and explain **the decision metric(s)** the FAA uses to evaluate noise impacts. As discussed above, those metrics should reflect the impacts that communities will actually experience, and the FAA should be able to explain how the metric accomplishes that in simple terms. The FAA should consider using multiple metrics to better explain all dimensions of the noise impacts.
- Leverage technology, including phone apps and web pages, to provide real-time information on noise levels and overflights and to make readily available periodic updates to cumulative metrics as they become available. It is critical that the FAA be proactive in making information available to the public.

Question 10. Misc.

Reconsideration of Some NextGen Procedures. Although the FAA has suggested it will not apply the new noise policy retroactively, the Cities believe strongly that the new policy should include provisions to reconsider some, if not all, recently adopted changes to flight procedures that have had particularly severe impacts. As the FAA knows, the implementation of NextGen procedures over the past decade has led to enormous controversy and litigation. Public outcry has also compelled Congress to direct the FAA to reconsider its noise policies and noise metrics because of the clear failure of past practices to address the real problems of aircraft noise in the 21st Century. Over the many years it has taken, and likely will continue to take, for the FAA to address those directives, new flight procedures have imposed enormous adverse impacts on many communities. Had the FAA acted more promptly, many communities would not have suffered such negative outcomes.

Given the length of time this process has and will take, it is incumbent on the FAA to provide a means for the most severely impacted communities to obtain relief. The Cities strongly urge the FAA to adopt a “trigger mechanism” to compel a review of flight procedure changes that have had a particularly severe impact. For example, the FAA could use its new system of noise metrics to identify communities that experienced a significant change in noise exposure. Alternatively, the FAA could select all procedures that made changes over populated areas below a certain altitude or that increased overflights by a given percentage.

Based on the severity of impacts as reevaluated by the new noise metric system, the FAA could identify a suite of “remedies” that would be available for different degrees of impact. For the most serious impacts, the FAA would commit to reconsider the procedure and develop alternatives with

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less impact. For less serious impacts, and in cases when there is no practical alternative flight procedure, the FAA would provide a range of mitigation measures that might include eligibility for acoustic insulation funding, eligibility for a Part 150 study, funding for noise monitors, or funding for studies on noise mitigation strategies (similar to Section 190 in the FAA Reauthorization Bill of 2018).

Increased Local Control. A significant problem with the FAA’s current approach to noise regulation is the inability of local governments, including airport sponsors, to address local noise issues through local noise ordinances. For example, repetitive local “touch-and-goes” and other repetitive, low altitude operations cause very real, adverse impacts on residents even if those operations do not exceed the 65 DNL threshold. Again, relying on a national, one-size-fits-all standard fails to account for the varied nature of noise impacts and leaves local communities and airport sponsors without the tools necessary to address local noise problems.

The new noise policy should allow a greater amount of local control over some aspects of aircraft noise. In particular, local communities and airport sponsors should have greater authority to establish local noise ordinances to regulate local general aviation operations, civil rotorcraft (e.g., helicopters and drones) operations below 2000 ft, and to provide incentives for aircraft operators to use quieter aircraft or use noise abatement flight procedures. Although the Cities recognize that the FAA has an interest in managing the overall National Airspace System in the national interest, local operations, particularly at general aviation airports, often impose severe impacts on communities that are out of proportion to the national interest. The noise policy should allow for greater local authority over local operations to address local noise problems.

Supersonics. The current ban on supersonic flights over US land and US territorial sea to prevent sonic boom should be maintained. In addition, the FAA should apply the same FAA noise standards to supersonic and subsonic aircraft.

Question 11: Literature Review


As the large volume of literature in the Background Materials tab in the Docket, as well as the several on-going studies on the health impacts of aircraft noise, makes clear, any analysis and understanding of noise impacts requires deep and broad understanding of several disciplines and many sub-disciplines, many of which, such as health impacts, are well outside the FAA’s institutional expertise. To assure that this large body of knowledge is properly understood and incorporated into the FAA’s decisionmaking, the Cities urge the FAA to engage the National Academies of Sciences to prepare an independent, unbiased, and peer-reviewed consensus report to recommend a system of noise metrics and thresholds *based on the science*. That report would include recommendations from the National Academies Division of Medicine on how to address the impacts of aircraft noise on public health.

An objective report based on science will not only assure that the system of noise metrics is objectively sound, but will inspire public confidence in the noise measurement methodology.

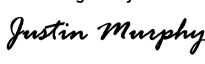
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Thank you for your consideration of these comments.

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