

## § 161.319

whole or in part, in the order of preference indicated by the applicant. Once the FAA approves a proposed restriction, the FAA will not consider any proposals of lower applicant-stated preference. Approval or disapproval will be given by the FAA within 180 days after receipt of the application or last supplement thereto under § 161.313. The FAA will publish its decision in the FEDERAL REGISTER and notify the applicant in writing.

(d) The applicant's failure to provide substantial evidence supporting the statutory conditions for approval of a particular proposal is grounds for disapproval of that proposed restriction.

(e) The FAA will approve or disapprove only the Stage 3 aspects of a restriction if the restriction applies to both Stage 2 and Stage 3 aircraft operations.

(f) An order approving a restriction may be subject to requirements that the applicant:

(1) Comply with factual representations and commitments in support of the restriction; and

(2) Ensure that any environmental mitigation actions or commitments by any party that are set forth in the environmental documentation provided in support of the restriction are implemented.

## § 161.319 Withdrawal or revision of restriction.

(a) The applicant may withdraw or revise a proposed restriction at any time prior to FAA approval or disapproval, and must do so if substantial changes are made as described in § 161.309. The applicant shall notify the FAA in writing of a decision to withdraw the proposed restriction for any reason. The FAA will publish a notice in the FEDERAL REGISTER that it has terminated its review without prejudice to resubmission. A resubmission will be considered a new application.

(b) A subsequent amendment to a Stage 3 restriction that was in effect after October 1, 1990, or an amendment to a Stage 3 restriction previously approved by the FAA, is subject to the procedures in this subpart if the amendment will further reduce or limit aircraft operations or affect aircraft safety. The applicant may, at its op-

## 14 CFR Ch. I (1-1-08 Edition)

tion, revise or amend a restriction previously disapproved by the FAA and resubmit it for approval. Amendments are subject to the same requirements and procedures as initial submissions.

## § 161.321 Optional use of 14 CFR part 150 procedures.

(a) An airport operator may use the procedures in part 150 of this chapter, instead of the procedures described in §§ 161.303(b) and 161.309(b) of this part, as a means of providing an adequate public notice and opportunity to comment on proposed Stage 3 restrictions, including submitted alternatives.

(b) If the airport operator elects to use 14 CFR part 150 procedures to comply with this subpart, the operator shall:

(1) Ensure that all parties identified for direct notice under § 161.303(b) are notified that the airport's 14 CFR part 150 program submission will include a proposed Stage 3 restriction under part 161, and that these parties are offered the opportunity to participate as consulted parties during the development of the 14 CFR part 150 program;

(2) Include the information required in § 161.303(c) (2) through (5) and § 161.305 in the analysis of the proposed restriction in the 14 CFR part 150 program submission; and

(3) Include in its 14 CFR part 150 submission to the FAA evidence of compliance with the notice requirements in paragraph (b)(1) of this section and include the information required for a part 161 application in § 161.311, together with a clear identification that the 14 CFR part 150 submission includes a proposed Stage 3 restriction for FAA review and approval under §§ 161.313, 161.315, and 161.317.

(c) The FAA will evaluate the proposed part 161 restriction on Stage 3 aircraft operations included in the 14 CFR part 150 submission in accordance with the procedures and standards of this part, and will review the total 14 CFR part 150 submission in accordance with the procedures and standards of 14 CFR part 150.

(d) An amendment of a restriction, as specified in § 161.319(b) of this part, may also be processed under 14 CFR part 150 procedures.