

FAA DISALLOWS NIGHTTIME CURFEW AT KBUR

November 3, 2009

What's at Issue

In a letter to the executive director of the Glendale – Burbank – Pasadena Airport Authority, the FAA denied the authorities application to impose a nighttime curfew on air traffic at Bob Hope airport in Burbank, CA.

Why it's Important

This decision to deny the airport's Part 161 application to impose a nighttime curfew will set the precedent for future airports looking to restrict access due to noise concerns.

Major Provisions

Under federal law (49 USC 47524(c)(2) and 14 CFR 161) an application made to the FAA to impose access restrictions due to noise issues at a federally obligated airport must demonstrate that:

1. The restriction is reasonable, non-arbitrary, and nondiscriminatory
2. The restriction does not create an undue burden on interstate or foreign commerce
3. The proposed restriction maintains the safe and efficient use of navigable airspace
4. The proposed restriction does not conflict with any existing Federal statute or regulation
5. The applicant has provided adequate opportunity for public comment on the proposed restriction
6. The proposed restriction does not create an undue burden on the National Airspace System

In the letter and attached documentation the FAA found:

1. In regards to condition 1,
 - a. There is substantial evidence that a current or future noise problem exists and the proposed curfew would relieve the problem
 - b. Because the authority failed to present substantial evidence that less-restrictive alternatives would be infeasible or less cost effective, the proposed curfew is unreasonable
 - c. The proposed curfew is nondiscriminatory

OVER...

4226 King Street
Alexandria, VA
22302

P 703-845-9000

F 703-845-8176

www.nata.aero

2. In regards to condition 2, the Authority has not shown that the proposed curfew would not place an undue burden on interstate or foreign commerce
3. In regards to condition 3, the Authority has not provided substantial evidence that the proposed curfew would maintain the safe and efficient use of airspace
4. In regards to condition 4, the proposed application would not conflict with any existing Federal statute or regulation
5. In regards to condition 5, the Authority has provided adequate opportunity for public comment
6. In regards to condition 6, The Authority has not provided substantial evidence that the proposed curfew would not place an undue burden on the National Airspace System

Because the Glendale – Burbank – Pasadena Airport Authority’s application did not meet all six statutory requirements, the application was denied by the FAA.

NATA Position

NATA is pleased that the FAA has found that the Glendale – Burbank – Pasadena Airport Authority’s Part 161 application to impose a nighttime curfew at Bob Hope Airport does not meet the statutory requirements. NATA’s comments to the FAA on the Authority’s application (available [here](#)) expressed concern that the authority had chosen the most-restrictive solution without giving adequate consideration to less restrictive alternatives. The FAA’s decision will help ensure that in the future, airports give ample consideration to solutions to noise concerns that do not involve airport access restrictions.

Status

As indicated in the letter to the Authority, this decision is the final decision of the Administrator and open for judicial review. A copy of the letter and supporting document are available [here](#). NATA will monitor for a response from the Airport Authority.

Staff Contact: Mike France
Manager, Regulatory Affairs
mfrance@nata.aero