



October 20, 2014

TO: Docket Operations M-30  
U.S. Department of Transportation (DOT)  
Submitted via eRulemaking at <http://www.regulations.gov>

FROM: MSP FairSkies Coalition  
Twin Cities Metro Area, Minnesota

CC: U.S. Senator Al Franken  
U.S. Senator Amy Klobuchar  
U.S. Representative Keith Ellison  
U.S. Representative Erik Paulsen

SUBJECT: Docket Number FAA-2014-0510

Thank you for allowing the public to submit comments—in this case our strong objections—to the FAA’s request to be exempt from environmental review for new airspace procedures, specifically, “Implementation of Legislative Categorical Exclusion for Environmental Review of Performance Based Navigation Procedures.”

MSP FairSkies Coalition is a strong alliance of concerned residents seeking greater transparency and accountability from the Federal Aviation Administration (FAA), the Metropolitan Airports Commission (MAC), Metropolitan Council and elected officials to ensure residents have a voice in airport issues that strongly impact our quality of life.

We find it appalling that the FAA seeks greater flexibility, via exemptions, to avoid much needed environmental reviews of Performance-Based Navigation (PBN), and that it is ignoring a Congressional call-to-action to change and lower the current 65 decibel Day-Night Average Sound Level (DNL). On behalf of our more than 4,000 coalition members in the Twin Cities metro area who are frustrated with the increasing aviation traffic, resulting overflight noise, and aircraft pollution from Minneapolis/St. Paul International Airport (MSP) operations, we respectfully submit the following comments and objections:

- We are opposed to any provision that allows the FAA to implement new flight procedures without conducting environmental impact studies.

The legislative CATEXs 5-6.5q and 5-6.5r, provided in section 213(c) of the FAA Modernization and Reform Act of 2012, make it possible for the FAA to avoid conducting any environmental analysis as a course of law. These CATEXs are in direct conflict with the mission of the National Environmental Policy Act (NEPA). According to the Order 1050.1F Environmental Impact Policies and Procedures summary page, "The National Environmental Policy Act (NEPA) establishes a broad national policy to protect the quality of the human environment and ensures that environmental considerations are given careful attention and appropriate weight in decisions of the Federal Government.

Regulations promulgated by the Council on Environmental Quality (CEQ) ([40 CFR parts 1500-1508](#)) implement Section 102(2) of NEPA, which contains the “action-forcing” provisions to ensure that Federal agencies act according to the letter and spirit of NEPA ([40 CFR 1505.1](#)) requires Federal agencies to develop and, as needed, revise implementing procedures consistent with the CEQ regulations.”

- We do not support this attempt or any attempt of the FAA to use a CATEX related to PBN because this would violate the CEQ's "Final Guidance for Federal Departments and Agencies on Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act. The Guidance states that to establish a CATEX the proposed actions "do not individually or cumulatively have a significant effect on the human environment" and that any agency wishing to establish such an exclusion must have "sufficient experience with the new activities to make a reasoned determination that any resulting environmental impacts are not significant."

Because PBN procedures have the unique ability to greatly increase the frequency and concentration of flight patterns over neighborhoods impacted by Minneapolis/St Paul (MSP) airport and, therefore, “have a significant effect on the human environment,” we believe that it does not meet CEQ's standard for a CATEX. It is abundantly clear to the communities and residents surrounding the MSP airport (and based upon the FAA's data) that the proposed PBN RNAV routes would have a tremendously significant negative effect on the human environment for those affected by the new flight paths.

Further, no study has been done on the health and physiological impact of neighborhoods around MSP with these changes, which is in direct conflict with NEPA. Consider that approximately 35% of all children in Minneapolis will go to school within noise range of the proposed PBN/RNAV tracks. According to the World Health Organization, "Impairment of early childhood development and education caused by noise may have lifelong effects on academic achievement and health. Studies and statistics on the effects of chronic exposure to aircraft noise on children have found consistent evidence that noise exposure harms cognitive performance, consistent association with impaired well-being and motivation to a slightly more limited extent, (and) moderate evidence of effects on blood pressure and catecholamine hormone secretion."

- We believe that the FAA has not obtained “sufficient experience with this new system” in other locales to claim they can make a reasoned determination that environmental impacts are not significant, as directed by CEQ's guidance. Serious concerns have been raised by communities and their legislative leaders near multiple OEP35 airports as a result of increased noise and pollution resulting from PBN implementation. These locales include New York, Chicago and Boston. In view of all of the above considerations, other cities including Minneapolis and Edina, MN are also submitting comments opposing a CATEX for PBN.

- We also strongly advocate lowering the current noise standard of 65 decibels DNL to 55 decibels (dB). The 55dB standard is currently supported by bi-partisan members of Congress (as noted in a letter sent to Michael Huerta, Administrator U.S. Department of Transportation, Federal Aviation Administration, dated September 12, 2014).

The FAA's position is that 65 decibels (dB) is an acceptable noise level, however, the FAA has not been consistent with what is considered acceptable minimum dB levels. In a recent US Court of Appeals victory (No. 12-1335), the FAA successfully argued that flights at 45 dB are "unbearable", and will "negatively impact" the quality of life. This same defense of quality of life should be pursued at all cities with urban airports such as MSP.

Most organizations worldwide have abandoned the use of DNL as an insufficient means to measure noise impact and use CNEL or other more accurate methods to measure these impacts. These organizations have also established 55 dB as the maximum threshold.

The FAA's use of 65 DNL as a measurement is outdated, inconsistent, and flawed. We urge all parties involved to use more accurate measures of noise impact and to lower the dB threshold.

The human side of the issue—quality of life considerations—should be paramount and all parties involved should act according to the letter and spirit of NEPA. A full and impartial environmental impact study should automatically be conducted by an independent party, using universally agreed to measurements, when requested by the impacted local communities.

It is imperative that a partnership be developed between the federal agencies, regional agencies, and local residents. We are calling for trust and transparency, neither of which is present when efforts to sidestep responsible actions are pursued and approved. Government MUST do a better job. We live here. We work here. Our children go to school here.

MSP FairSkies Coalition appreciates the opportunity to provide our comments. Should you have any questions, please contact me at [steve@mspfairskies.org](mailto:steve@mspfairskies.org).

Sincerely,

Steve Kittleson  
MSP FairSkies Coalition