AGENDA
DES MOINES AIRPORT ADVISORY COMMITTEE MEETING

City Council Chambers
21630 11th Avenue S, Suite C
Des Moines, Washington
Monday, April 13, 2026 - 4:00 PM

CALL TO ORDER

ROLL CALL

AGENDA ITEMS

Item 1. **Approval of Minutes**
Motion: "I move to approve the minutes from the Airport Advisory Committee meeting held on March 9, 2026."

Item 2. **Complaints/Communications**

Item 3. **Sea-Tac Stakeholder Advisory Round Table (StART) Meeting Update**

- Update and discussion of the meeting with Burien's Community Reps and the presentation re: the Roundtable of Roundtable's at the next StART Meeting.

Item 4. **Sustainable Airport Master Plan (SAMP) Update**

Item 5. **Airport Committee Workplan Amendment Discussion**

- Support City response and/or comments to the SAMP Draft EIS
- Support the City, as needed, in public education efforts regarding the impacts of the airport on the Des Moines Community
- Research mitigation measures and make additional mitigation recommendations
- Advocate for a more comprehensive traffic analysis in the SEPA process for the SAMP that includes impacts from WSDOT's completed HWY 509 project
- Community Survey

NEXT MEETING DATE

May 11, 2026

ADJOURNMENT

MINUTES
DES MOINES AIRPORT ADVISORY COMMITTEE MEETING

City Council Chambers
21630 11th Avenue S, Suite C
Des Moines, Washington
Monday, March 9, 2026 - 4:00 PM

CALL TO ORDER

Committee Chair Joe Dusenbury called the meeting to order at 4:00 p.m.

ROLL CALL

Committee Present:
Committee Chair Joe Dusenbury, Barton DeLacy, Jeffrey Bogen, and Steve Reagin

Committee Absent:
Todd Downing

Staff Present:
City Manager Katherine Caffrey, Planning and Development Service Manager Laura Techico, and Deputy City Clerk Sara Lee

AGENDA ITEMS

Item 1. **Approval of Minutes**
Motion: "I move to approve the minutes from the Airport Advisory Committee meeting held on February 9, 2026."

Direction/Action
Motion made by Barton DeLacy to approve the February 9, 2026 Airport Advisory Committee Meeting Minutes and the February 23, 2026 off-site Airport Advisory Committee Meeting Minutes; seconded by Steve Reagin.
Motion passed 4-0.

Item 2. **Complaints/Communications**

- The Committee discussed wanting to access archived complaints and responses. No new complaints were reported.

Item 3. **Sea-Tac Stakeholder Advisory Round Table (StART) Discussion**

- The Committee discussed the Sea-Tac Stakeholder Advisory Round Table and whether the membership could be expanded to include elected officials, such as King County Council members.

Item 4. **Sustainable Airport Master Plan (SAMP) Discussion**

- The Committee discussed the Sustainable Airport Master Plan and aviation forecasting.

- Councilmember JC Harris gave a public comment to the Committee.

Item 5. **Legislative Discussion**

- No report.

NEXT MEETING DATE

April 13, 2026

ADJOURNMENT

The meeting adjourned at 5:09 p.m.

Quiet Communities Inc.

Quiet American Skies Program

ROUNDTABLE OF ROUNDTABLES

Meeting Notes

FEB 12, 2026 / 7-9pm EST

Attending:

Roundtable Representatives
Boston: Aaron Toffler, Alan Wright
Chicago: Maura El Metennani, Joe Anunzio
DC Metroplex BWI: Absent
Los Angeles: Denny Schneider, Jonathan Loewenberg
Minneapolis: Loren Olsen
New York (LGA): Maria Becce
New York (JFK): Barbara Brown
Washington National Airport: Janelle Wright, Ken Buckley
Seattle: Marco Milanese, Ryan McMullan, Joe Dusenbury

Quiet Communities Inc/Quiet American Skies Program
Jamie Banks
David Sykes
Anne Hollander
Lara Rabiee

Strategy Matters: Meeting Facilitator
Liz O'Connor

I. Updates and segue into proposed unified projects

Here are a few things the members suggested in November

- Strategies for working with the FAA;
- Fly Quiet programs/other incentive programs;
- Advocacy – Legislative/administrative/airlines;
- Economic vs. public health impacts of aviation;
- Data/monitoring

II. Possible Other Unified Projects

The group spent most of the meeting proposing additional areas for collaborative work. Open discussion on possible projects.

A. What are you working on now or would like to work on with others?

1. Air pollution and ultrafine particles emitted by planes (Barbara, Loren)
2. Reduce nighttime noise – resulting sleep problems and impacts on learning (Loren)
3. Data collection and the Fly Quiet program - improving the way we track noise (e.g., EnviroSuite's ANEEM [Aircraft Noise Event Extraction Methodology]). NY are currently working with HMMH on this (Maria)
4. Noise abatement procedures with airline opt-in (Maria)
5. Virtual noise monitoring, reducing equipment needs and linked to EnviroSuite programs to enhance monthly reporting (Maria)
6. Data analysis on cargo and other uses and see what trends might be useful to look into - who are the top offenders? (Jon)
7. Fighting back to protect/restore the Clean Air Act, other EPA protections (e.g., Noise Control Act)(Joe/Maura)
8. Change the public narrative from "noise as annoyance," to "noise as public health hazard" or some other more accurate description which connects meaningfully to health outcomes (Joe/Maura)
9. Revitalizing our formerly powerful Fly Quiet program(s)(Joe/Maura)
10. Updating and Implementation of existing FAA Noise Policy review and review of the (in)appropriateness of the 65 DNL - find out what progress has been made/get restarted (Marco, Denny)
11. FAA programs that are intended to be helpful on noise, e.g.,Part 150 studies (sound insulation). Find out who qualified for that assistance 12 years ago – who got it and those who did not get it but are entitled to it (Barbara, Ryan)
12. Tax credits for sustainable aviation fuel and action at the Port Authority to implement it - get a sense of how widespread this might be (Aaron, Maria)
13. Congresswoman Meng's legislative efforts (Quiet Communities Act, Bill HR 5151) It has 25 co-sponsors now (Maria)
14. Keeping track of emerging aviation technology, i.e., Blended Wing Body (BWB) aircraft (Maria)

15. Local special district status for tailored protections (Denny)

III. Information and Resources to share

- Cost of the Fly Quiet program and related consulting from HMMH - from Kenneth
- HMMH report
- Info on SAF Tax Credit Programs
- Motion to make LAX gather different data, etc.
- OAG: may have data on users of airlines/flying
- Barriers to Implementing Sustainable Aviation Fuel in MA (report)

- Flight-path study by Dr. R. John Hansman of MIT in conjunction with FAA to reduce overflight noise; flight-paths are exclusively governed by the federal government and little local control or input (Alan)

IV. Strategic Advice for Engaging the FAA

- Successful engagement with the FAA requires that Roundtables: (Janelle)
    - Get the attention of politicians to see the importance, perhaps through constituent testimony,
    - Understand that the FAA is under-resourced
    - Get airspace experts to do the technical work (ex-FAA is good, make it a win-win for them or at least understand their issues, e.g., safety and efficiency - DC used Jim Allerdice at Vianair)
    - Engage the air traffic controllers
    - Develop a cordial working relationship with the FAA

V. Contact Medical Societies

- Shifting paradigm away from noise as an annoyance to noise and its relationship to stress
- First Joint Statement by the American College of Cardiology, the American Heart Association, the European Society of Cardiology and the World Heart Federation on environmental risk factors, including excessive noise, linked to cardiovascular disease:
    - https://jamanetwork.com/journals/jama/fullarticle/2845183

VI. Next:

A. Develop options for project selection Perhaps consider projects that have:

- Current activity in the relevant sector (outside of roundtables), e.g. the FAA active on it, or there is crossover with other active public health movements
- There is some hope of making change in the next few years because the nature of the project offers a visible timeline

B. RoR organizers will

- Set up next meeting time

- Work with interested members of this group to consider starting smaller workgroups on possible unified projects.

****

Notes + Resources

We can begin to keep track of resources for this group through a simple running notes / resources document. Here is a first attempt at that, including notes from our first meeting, and contact lists, survey responses.

StART

SEA Stakeholder Advisory Round Table

StART Meeting

February 24, 2026

AGENDA

- Welcome
  - Meeting Management/Introductions
  - Opening Comments
- SEA Airport Growth Projections
- Sustainable Airport Master Plan Near-Term Projects Update
- Policy Working Group Activities
- Aviation Noise Working Group Activities
- Public Comment
- Wrap Up & Next Steps

FACILITATION & NOTE TAKING (UNCOMMON BRIDGES)

ANDRES MANTILLA

FACILITATOR

Zoom Facilitation Platform

- Zoom Webinar Panelist Style Format
- StART Members & Guest Speakers (Panelists)
  - Can speak during the meeting
  - Can chat with facilitators, guest speakers & lead Port staff
- Observers (Attendees)
  - Can see speakers and presentation materials
  - Not visible to StART members or presenters; chat not available
- Public Comment
  - Facilitator will make commenters temporary panelists when it's their turn
  - Commenters will turn on video and unmute at that time
  - Everyone will be able to see and hear public commenters when called on

StART Member Roster

Burien	Federal Way	Des Moines	Tukwila	Normandy Park	SeaTac
Adolfo Bailon	Bill Vadino	Katherine Caffrey	Brandon Miles	Amy Arrington	Jonathan Young
Karen Veloria	Michael Brugato	Joe Dusenbury	Peter Schilling	Moira Bradshaw	Roger Kadeg
Jeff Harbaugh	Jack Dovey	Barton DeLacy	Kathleen Wilson	Bryan Tomich	Julie Le
(alt) Garmon Newsom II	(alt) Brian Davis	(alt) Rebecca Deming	(alt) Laurel Humphrey	(alt) Jeff Watson	(alt) Brion Humenay
	Delta Air Lines	**Alaska Airlines**	**Air Cargo**	**Port of Seattle**	
	(alt) Scott Ingham	Scott Kennedy	TBD	Wendy Reiter	
		Alethia Miller		Eric Schinfeld	
				Marco Milanese	
				(alt) Sarah Cox	

- **Only StART members and presenters invited to speak during the agenda topics.**
- **Use the Zoom "hand raise" function to help us see you.**

Expectations & Ground Rules

- Participate!
- Focus on the Subject at Hand
- Represent Your Constituency
- Respect Diverse Views
- Communicate Fairly

- Ground Rules:
  - Participate fully, honestly & fairly
  - Speak respectfully
  - Keep an open mind
  - Acknowledge all participants
  - Allow people to share without fear of criticism

Facilitation Ground Rules

- Neutrality
- Transparency
- Clarity
- Each voice is heard
- Begin & end on time
- Clear follow-up

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- Clarity
- Each voice is heard
- Begin & end on time
- Clear follow-up

- **Only StART members and presenters during the agenda topics.**
- **"Chat" by and to StART members, facilitators & Port leads.**
- **"Chat" is not available to observers.**
- **Public comment: One person is signed up.**
  - **Limited to 2 minutes**
- **Facilitator will enable/disable audio & video for public comments.**

Recording Meetings

StART meetings will not be officially audio or video-recorded.

- If anyone wishes to audio or video-record a meeting, they are required to notify the facilitator prior to beginning recording.
- Any recordings by participants or members of the public are not considered official or necessarily accurate recordings of the meeting.

Opening Comments

- Wendy Reiter, StART Chair/SEA Managing Director, Port of Seattle (POS)

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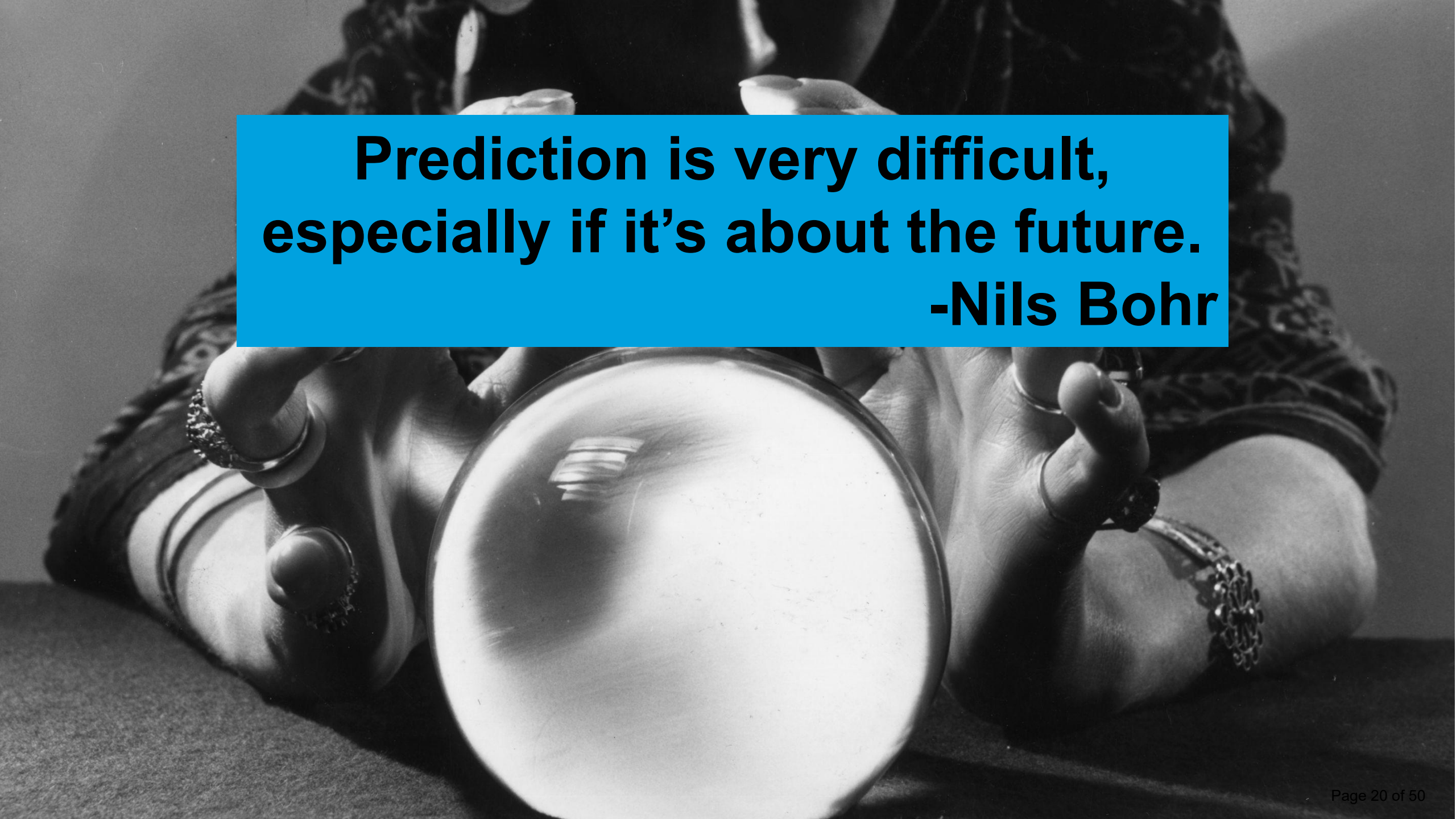
Introduction to Aviation Forecasting

StART - 02/25/2026


Prediction is very difficult,
especially if it's about the future.
-Nils Bohr

Airport Planning Process

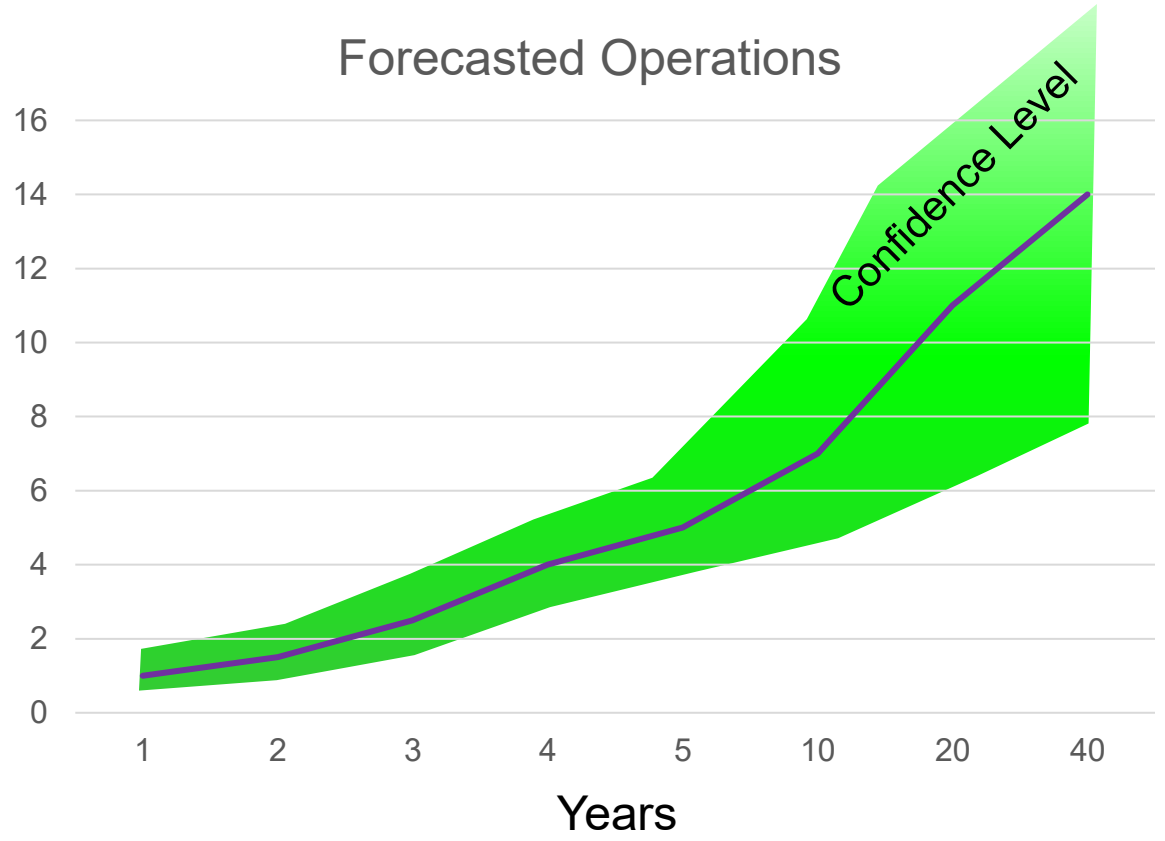
- Identify Passenger Demand for the Airport
  - Forecasting
    - Passengers
    - Aircraft operations
    - Automobiles
- Identify Limitations/Constraints to Meeting Forecasted Demand
  - Physical
  - Operational
  - Level-of-Service (LOS)
- Develop Alternatives to Overcome Constraints
- Evaluate Alternatives
  - Feasibility
  - Costs
  - Other impacts
- Develop Recommendations

Purpose of Aviation Forecasting

- Long-Term Airport Planning and Capacity Needs
  - Airside Facilities Expansion
  - Landside Facilities Expansion
- Short-Term Operational Planning
  - Personnel Requirements
  - Passenger Travel Time/Delays
- Financial Planning
  - Bond Issues (Financial Feasibility)
  - Annual Budgeting
  - Benefit-Cost Analysis

Challenges to Aviation Forecasting

- Dynamic Nature of Aviation
  - Airline Bankruptcy/Consolidation
  - Aircraft Manufacturing
  - Cargo/E-Commerce
- Consistent Elements
  - Passenger demand for air travel has proven to be extremely resilient
- Approach to Long Term Forecasts
  - Passenger Activity Levels (PALs) versus Year-Based Predictions
  - PALs Used as Triggers for Action



Factors Considered for Aviation Forecasting

- Economic Base
- Population Demographics
- Income
- Employment
- Tourism
- GDP/Regional Product

Unconstrained Forecast

- Projection of pure demand
- Does not consider airport limitations

Identifying Constraints/Limitations

- Physical Constraints
  - Example: No Federal Immigration Service = no international flights
- Operational Constraints
  - Example: Runways too close together = less capacity for flights
- Level-of-Service
  - Example: Small gate holdrooms = queuing into the common hallways

Constrained Operating Growth Scenario

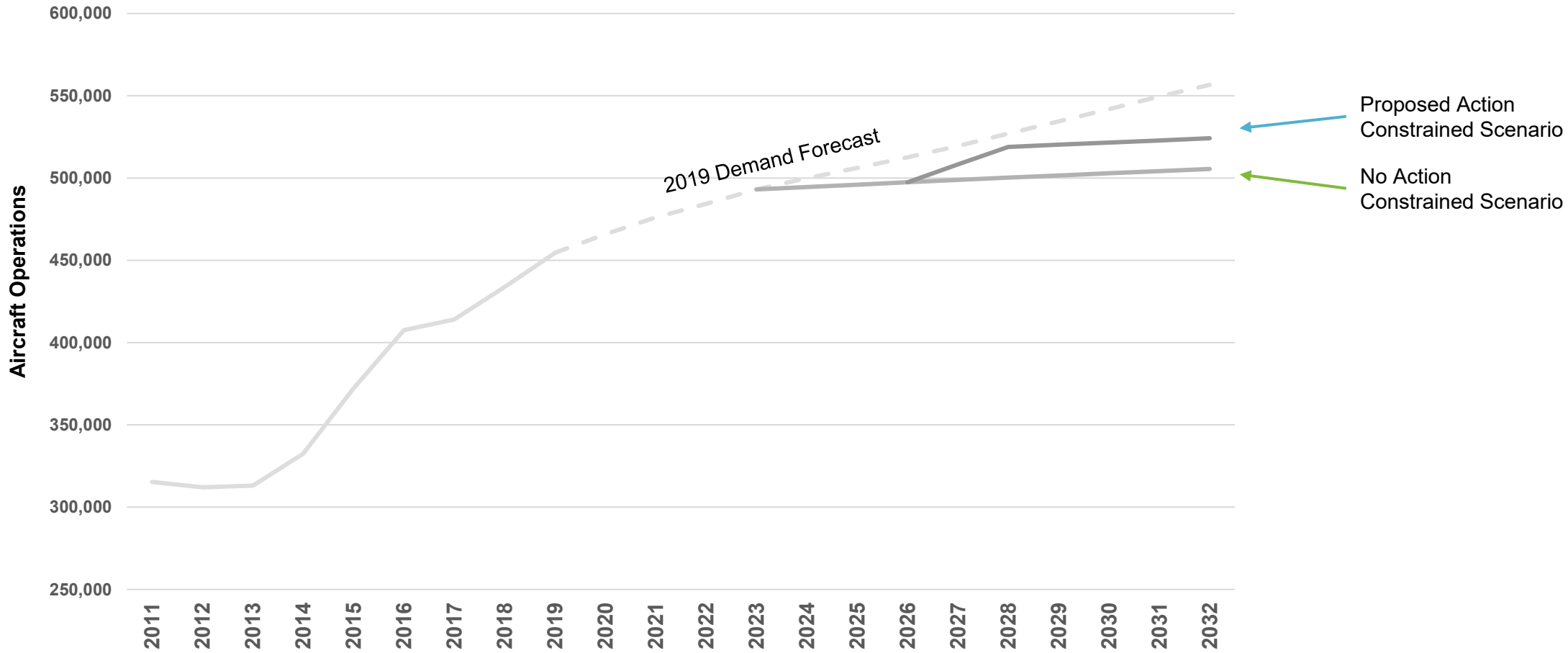
- Simulation/Capacity Modeling Predicts Operational and LOS Constraints
  - Good predictors of trends and points at which action should be taken
  - Models are not useful predictors of total capacity (e.g., >20 min delay)
- Reality of Airport Capacity is Nuanced
  - Three US airports have regulatory caps on aircraft activity (LGA, JFK, DCA)
  - Without regulatory caps, even the most congested airports continue to see growth
    - Below national average
    - Often as a result of small operational changes (flight schedules, size of aircraft, etc.)
- COGS Analysis
  - Used to estimate the small growth once the models stop reliably predicting delay
  - Considers all the small actions an airport and airline may make to increase passenger levels
  - Even with new facilities, constraints can reappear

Sustainable Airport Master Plan
Near-Term Projects
Environmental Review Forecast

SAMP Demand Forecasts and Constrained Scenarios

		2027		2032	
	Type	Aircraft Operations	Passengers (millions)	Aircraft Operations	Passengers (millions)
SAMP Demand Forecast (2015)	Unconstrained	477,000	56.0	527,000	63.0
SAMP Updated Demand Forecast (2019)	Unconstrained	520,000	61.1	557,400	70.9
No Action (w/o projects) scenario	Constrained	467,000	58.1	506,000	60.7
Proposed Action (w/projects) scenario	Constrained	508,000	59.2	524,000	63.1

Environmental review analysis based on constrained growth scenarios



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Sustainable Airport Master Plan Near-Term Projects Update

- Sarah Cox, Aviation Environment & Sustainability Director, Port of Seattle (POS)

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Policy Working Group Activities

- John Flanagan, State Government Relations Manager, POS

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Aviation Noise Working Group Activities

- Marco Milanese, Community Engagement Manager, Port of Seattle (POS)

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Public Comment

Public Comments

- One Person signed up
- Limited to 2 minutes
- Facilitator will Enable/Disable Panelist Access
- Please Un-mute and Turn on Your Video while speaking

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Wrap-up + Next Steps

- Meeting Summary
- Next Meeting: April 29, 2026 via Zoom

Procedure, Preemption, and Persistent Noise: Why Aviation Law Struggles to Address Community Harm

Communities under flight paths report frustration at chronic aircraft noise and its health, sleep, and quality-of-life impacts. *See Aviation Noise Impacts: State of the Science, PubMed Central, Mar-Apr 2017*. They point to repeated overflights during sensitive times, opaque decision-making, and the limited role of community input.

The legal framework, by contrast, centers on federal authority and procedure. U.S. law (e.g., *City of Burbank v. Lockheed*, 411 U.S. 624 (1973)) preempts local noise rules, vesting noise control in the FAA under the Noise Control Act of 1972 and severely limits the ability of airport owners and operators to restrict flights under such laws as the Airport Noise and Control Act (ANCA). Federal processes like the National Environmental Policy Act (NEPA) and FAA orders require public participation and environmental review, but rely on aggregate noise metrics, such as "Day-Night Level" (DNL) and defer to technical judgment. *See* *Community Response to Noise | Federal Aviation Administration*.

This means communities' lived experiences, such as sleep disruption from sporadic nighttime flights, health impacts from noise and emissions, and general lack of quiet, often fall outside the legally "significant" envelope, even if science links such disturbance to adverse health outcomes. Overall, while law provides procedural avenues and some technical tools, communities perceive a gap between what is legally permitted and what is possible. An integrated analysis shows ***where*** legal requirements support community input – and ***where*** they fall short in addressing the human story behind the noise numbers.

1. Community Voices and Concerns

A. Documented Health Impacts and Concentrated Overflights

Many residents under flight paths describe a constant presence overhead, reporting that aircraft noise disrupts rest and is associated with a range of adverse effects on health and overall quality of life in communities near airports. *See Aircraft Noise: FAA Should Improve Efforts to Address Community Concerns, U.S. Government Accountability Office (Mar. 17, 2022).* Scientists concur that aircraft noise is associated with community annoyance and sleep disturbance, and long-term exposure is linked to increased cardiovascular risk among nearby residents. Meta-analytic evidence shows that chronic aircraft noise exposure is significantly associated with higher risk of cardiovascular disease and related mortality, and case-crossover studies have found short-term increases in cardiovascular events with noise exposure. Epidemiologic research also documents higher prevalence of annoyance and sleep disorders near airports. *Id.*

Communities note that although aircraft have become quieter due to technological advances, aircraft noise remains disruptive. A 2022 GAO report found that aircraft noise can still expose residents to negative effects and that concentrated flight paths associated with newer procedures have generated significant community complaints. Id. Community activists emphasize lived experience. Peer-reviewed research confirms that aircraft noise is associated with sleep fragmentation, increased nighttime arousals, cardiovascular stress responses, and other health impacts *(Basner et al., Lancet 2014; WHO Environmental Noise Guidelines 2018).*

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Partner

Leader, Aviation & Aerospace
Co-Leader, Environmental

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Steve Taber is based in Los Angeles and regularly advises clients on environmental law, aviation and airport development law matters, corporate legal issues, and complex litigation. In his capacity as an attorney for the FAA, Steve was involved with many aspects of the requirements of the Federal Aviation Regulations (FARs) and FAA enforcement actions.

B. Averaged Metrics and the Limits of DNL

FAA evaluates impacts primarily through the Day-Night Average Sound Level (DNL), a 24-hour averaged metric that can smooth out intense but intermittent nighttime disturbances. But even with a 10 dB "penalty" for night-time noise, communities say the bursts of noise – one loud jet at 2 AM or dozens at 6 AM – can go unnoticed by the DNL average and create significant impacts on the community. The National Academies and GAO have noted that community annoyance and sleep disturbance occur well below the DNL 65 dB threshold and that residents often perceive a disconnect between lived experience and averaged metrics used in NEPA review *(GAO-22-105844; Nat'l Academies 2014).* GAO noted that DNL "does not provide a clear picture" for community members. The same DNL value can result from few loud flights or many quieter ones, confusing residents trying to relate model results to lived experience. Activists argue this disconnect undervalues the disturbance of sleep and stress.

C. The Neighborhood Environmental Survey and the Unchanged Threshold

Against this backdrop, FAA itself undertook a major reassessment of community annoyance through the Neighborhood Environmental Survey (NES), designed to develop "an updated and nationally representative civil aircraft dose-response curve" quantifying the relationship between aircraft noise exposure (in DNL) and the percentage of individuals reporting themselves as "highly annoyed." The NES found that the percentage of residents reporting high annoyance increased monotonically with increasing DNL exposure and, significantly, that the updated national curve showed "substantially more people highly annoyed for a given DNL aircraft noise exposure level" than prior studies.

The report also acknowledged continued negative public reactions at exposures well below DNL 65 dB and suggested that re-examination of the dose-response relationship was appropriate. Yet, notwithstanding these updated findings, FAA has not revised the DNL 65 threshold embedded in its land-use compatibility framework under 14 C.F.R. Part 150, nor did it modify its NEPA significance criteria to account for the higher reported annoyance levels reflected in the NES. The agency continues to rely on DNL 65 as the benchmark for long-term compatibility determinations, consistent with earlier federal reviews that reaffirmed the metric.

In practical terms, the NES generated new empirical evidence demonstrating that community annoyance occurs at greater rates than previously assumed for a given exposure level, but the regulatory trigger for significance has remained unchanged. This disconnect has become central to community criticism. Residents argue that FAA undertook a comprehensive national survey, documented materially higher annoyance responses, and then left intact the operative regulatory threshold that determines when mitigation or compatibility planning is required. From an administrative law perspective, the concern is not merely rhetorical. When an agency develops updated scientific findings that materially alter the factual predicate underlying a regulatory benchmark, continued reliance on the prior benchmark invites scrutiny under the Administrative Procedure Act's requirement that agency action not be arbitrary or capricious. While FAA retains discretion in selecting policy thresholds, the absence of any corresponding regulatory adjustment following the NES has reinforced the perception that the empirical findings have not meaningfully altered decision-making outcomes.

D. Outreach, Equity, and the Narrowing of Environmental Justice

Communities describe a similar dynamic in public outreach. Affected communities frequently describe FAA outreach mechanisms, such as forums, roundtables, and public meetings, as procedurally available but substantively limited. GAO found that members of some FAA community forums were "frustrated and unclear on how to productively engage with FAA" regarding aircraft noise concerns, and that existing guidance did not clearly explain what influence communities could realistically exert over flight procedures once implemented. *GAO-21-103933; GAO-22-105844.* Although FAA characterizes these forums as vehicles for dialogue, GAO's review reflects a perception among some participants that outreach does not translate into meaningful change, reinforcing skepticism about the agency's responsiveness to concentrated noise impacts. When updated annoyance data does not translate into revised thresholds or mitigation triggers, and outreach does not clearly articulate pathways for change, residents perceive that testimony is received but that the governing metrics, particularly the averaged DNL 65 standard, continue to control dispositively.

Moreover, community leaders, particularly in low-income and minority neighborhoods, have long framed aviation noise disputes in equity terms. For decades, Executive Order 12898 (1994) directed federal agencies to identify and address "disproportionately high and adverse" effects on minority and low-income populations. Although that Order created no private right of action, it imposed a binding executive policy directive on federal agencies to incorporate environmental justice into their programs and decision-making. Courts treated environmental justice arguments as part of NEPA and APA review, and while remands were rare absent analytical deficiencies, agencies were nonetheless expected to demonstrate that disproportionate impacts had been examined and disclosed.

Executive Order 12898 was formally revoked on January 21, 2025, by Executive Order 14173. With that revocation, agencies are no longer subject to a government-wide mandate to integrate environmental justice considerations into

their decision-making frameworks. The legal consequence is significant. While equity concerns may still be raised under NEPA's "hard look" requirement, Title VI administrative processes, or general arbitrary-and-capricious review, they no longer rest on an independent executive directive requiring agencies affirmatively to address disproportionate burdens.

In the aviation context, this shift interacts directly with FAA's continued reliance on exposure-averaged metrics, such as DNL 65, and its retention of existing significance thresholds even after updated empirical findings regarding annoyance and concentrated impacts. Where communities allege that concentrated flight corridors disproportionately burden vulnerable neighborhoods, the absence of an executive mandate heightens the importance of rigorous NEPA analysis. Under the Administrative Procedure Act, agency action must be the product of reasoned decision-making; an agency may not ignore relevant factors or fail to grapple with significant aspects of the problem. When disproportionate impacts are documented in the record yet not meaningfully analyzed in the agency's decision, the vulnerability is no longer framed as failure to comply with an executive directive, but as potential arbitrary and capricious action.

The revocation of EO 12898 does not insulate agencies from review. Rather, it removes a structural expectation that equity be affirmatively integrated into agency missions, leaving equity claims to rise or fall solely within traditional APA doctrine. For affected neighborhoods, the practical effect is that concentrated harm must now be translated into procedural deficiencies – inadequate alternatives analysis, failure to disclose impacts, or insufficient responses to comments, for example — rather than into violation of a freestanding environmental justice mandate. The result is a steeper litigation burden and a narrower doctrinal pathway for challenging concentrated aviation noise in vulnerable communities.

E. Information Barriers, Section 803, and Record-Based Litigation

Beyond the substantive noise analysis, affected communities increasingly confront a structural problem of record access. Section 803 of the FAA Reauthorization Act of 2024, for example, seeks to restrict public access to certain aircraft owner-identification information, including name and contact details, and directs FAA to limit dissemination of specified registration data. While framed as a privacy protection measure, the practical consequence is a narrowing of the publicly available operational information that communities historically used to track repeat overflights, identify aircraft types, correlate flight paths with localized disturbances, and evaluate whether particular procedures are generating concentrated impacts. When combined with FAA's control over the modeling inputs used in NEPA noise analyses, including traffic forecasts, fleet mix assumptions, and dispersion modeling, this restriction can materially affect the ability of the public to test or rebut agency conclusions.

Under the Administrative Procedure Act, judicial review is confined to the administrative record, and the agency bears responsibility for compiling a record that reflects the factors considered in its decision. Courts do not substitute their judgment for that of the agency, but they require a "reasoned explanation" demonstrating that the agency considered all relevant aspects of the problem and responded meaningfully to significant comments. Where access to underlying operational data is limited, public comment may be constrained to challenging the agency's conclusions rather than interrogating its assumptions. The resulting record may therefore contain only the agency's selected exposure metrics and modeling outputs, with limited adversarial testing of inputs.

In aviation noise cases, this dynamic is consequential. If an environmental assessment acknowledges measurable increases in overflights or localized concentration but concludes that impacts remain below DNL 65 or other regulatory thresholds, mitigation will be foreclosed as a matter of significance. Communities argue that without access to granular operational data sufficient to evaluate dispersion assumptions or single-event noise patterns, they cannot meaningfully demonstrate that the agency overlooked concentrated or episodic impacts. The issue thus becomes one of procedural sufficiency under the APA: whether the record reflects a genuine examination of relevant operational realities, or whether constrained data access has functionally limited the scope of what could be contested in the first instance.

Section 803 and other limitations on informational disclosures do not eliminate NEPA obligations. Nor do they alter the APA's arbitrary-and-capricious standard. But in practical terms, it reshapes the informational terrain on which record-based challenges are mounted. When the public's ability to independently analyze operations is reduced, the adequacy of the administrative record, and the transparency of the assumptions embedded within it, becomes even more central to judicial review.

F. Acknowledged Impacts, Unchanged Standards

In summary, communities under concentrated flight paths describe more than inconvenience, they point to documented sleep fragmentation, annoyance, stress, and elevated cardiovascular risk associated with aircraft noise. GAO has confirmed that despite quieter aircraft overall, noise remains disruptive in certain corridors, particularly where newer procedures concentrate traffic. FAA's own 2021 Neighborhood Environmental Survey found substantially

higher reported annoyance at given DNL exposure levels than earlier federal studies, including reactions below DNL 65. Yet the agency has retained DNL 65 as the governing compatibility benchmark. Residents view this as a structural disconnect. Updated empirical evidence acknowledges greater community impact, but the regulatory threshold that determines legal significance and mitigation eligibility remains unchanged.

That disconnect is compounded by procedural and informational constraints. GAO has documented community frustration with FAA outreach, describing participants as unclear how to influence operational decisions. At the same time, recent legislation and regulations limit public access to certain operational data, narrowing the ability of communities to independently test modeling assumptions embedded in NEPA analyses. Because judicial review under the APA is confined to the administrative record compiled by the agency, limited data access and reliance on averaged exposure metrics can make concentrated impacts difficult to translate into legally cognizable claims. With the revocation of Executive Order 12898 in 2025, equity concerns no longer rest on an independent executive mandate but must be framed within traditional NEPA and APA doctrines. Whether these grievances yield relief, therefore, turns not on the existence of annoyance or sleep disturbance, but on how the governing statutes and standards define significance, discretion, and reasoned decision-making.

II. Legal and Regulatory Framework

A. Federal Authority and Preemption

Under U.S. law, federal authority over aviation is not merely strong — it is structurally dominant. The Federal Aviation Act of 1958, now codified at 49 U.S.C. §§ 40101 et seq., assigns the United States "exclusive sovereignty of airspace of the United States" and directs the FAA Administrator to regulate the use of navigable airspace in the interest of safety and efficiency. 49 U.S.C. § 40103(a)–(b). In *City of Burbank v. Lockheed Air Terminal, Inc.,* 411 U.S. 624 (1973), the Supreme Court held the comprehensive federal regulatory structure governing aircraft operations preempted a municipal curfew ordinance. The Court reasoned that aircraft noise regulation was inseparable from national airspace management and that a patchwork of local curfews would undermine uniformity. At the same time, the Court acknowledged, in dicta, a limited role for "airport proprietors" to impose reasonable, non-discriminatory noise restrictions in their capacity as owners and operators of airport facilities. The contours of this so-called "proprietor exception," however, were left undefined.

Subsequent legislation significantly narrowed that space. The Airline Deregulation Act of 1978 (ADA), 49 U.S.C. § 41713(b), broadly preempted state and local laws "related to a price, route, or service of an air carrier," reinforcing federal dominance over operational matters. The Airport Noise and Capacity Act of 1990 (ANCA), 49 U.S.C. §§ 47521–47534, further centralized authority by creating a national framework governing airport noise and access restrictions. ANCA requires FAA approval of most new local restrictions affecting Stage 2 or Stage 3 aircraft and imposes a demanding Part 161 review process for any locally adopted noise or access limitation. In practical effect, ANCA transformed the previously undefined proprietor exception into a highly constrained and procedurally burdensome pathway.

Federal grant assurances have tightened the framework further. Airports that accept Airport Improvement Program (AIP) funding must comply with 49 U.S.C. § 47107 and related assurances, including obligations to make the airport available for public use on reasonable terms and without unjust discrimination. FAA has interpreted these assurances to prohibit local restrictions that reduce capacity, discriminate among users, or conflict with national airspace policy, and it retains enforcement authority that can include withholding funds or pursuing compliance actions. Through these mechanisms, FAA has effectively circumscribed whatever residual discretion the proprietor exception might otherwise have afforded.

The cumulative result is a layered preemption regime. States and municipalities may not independently regulate aircraft operations, routes, schedules, or noise standards in ways that conflict with federal determinations. Even airport proprietors, including municipal airport owners, operate within a framework shaped by the Federal Aviation Act, the Noise Control Act as implemented by FAA, the ADA, ANCA, and binding grant assurances. For residents, this means that local curfews or operational caps are largely unavailable as remedies. For municipalities, the frustration is institutional. Elected officials may face sustained demands for relief yet lack unilateral authority to impose restrictions without risking federal disapproval or loss of funding. In this structure, meaningful change to flight paths, operational intensity, or noise thresholds generally depends on FAA action or congressional amendment, reinforcing the centrality of federal discretion in resolving local aviation noise conflicts.

Despite the breadth of federal preemption, Congress has imposed procedural constraints on how FAA exercises its authority. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2)(C), requires federal agencies (including FAA) to prepare an Environmental Impact Statement (EIS) or Environmental Assessment (EA) for major federal actions significantly affecting the human environment. For aviation projects, which include flight procedure changes, airport expansions, and other actions that may alter noise exposure, NEPA mandates a "hard look" at environmental consequences, including disclosure of direct, indirect, and cumulative impacts and consideration of reasonable alternatives. Courts have enforced these obligations in aviation cases. In *City of Los Angeles v. FAA* (9th Cir. 2023), for

example, the court upheld most of FAA's alternatives analysis regarding the Burbank terminal project but found the agency failed to take the required "hard look" at certain construction-noise impacts because it relied on unsupported assumptions. The decision underscores a consistent theme. NEPA can require disclosure, analysis, and reasoned explanation, but it does not compel FAA to select the least noisy alternative or impose substantive noise reductions. So long as the agency "examines the relevant data and articulates a satisfactory explanation" for its choice, courts generally defer under the APA's arbitrary-and-capricious standard.

The Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A), reinforces this procedural framework by requiring reasoned decision-making and prohibiting arbitrary or capricious agency action. Agencies must respond to "significant" public comments and cannot ignore relevant factors raised in the record. FAA's own NEPA implementing order, FAA Order 1050.1G, historically incorporated environmental justice considerations (including enhanced outreach under Executive Order 12898 prior to its revocation), and requires analysis of noise significance thresholds. Yet the governing statutes stop short of imposing substantive limits on FAA's policy choices. Unlike statutes such as the Clean Air Act, which set ambient standards, federal aviation law does not prescribe maximum community noise levels that FAA must achieve. The Noise Control Act of 1972 authorizes federal aircraft noise standards but does not require FAA to impose standards protective of particular communities, and Congress has not enacted a statutory decibel cap for airport compatibility determinations. Indeed, ANCA channels noise restrictions through a federal approval process rather than mandating reductions, and grant-assurance obligations emphasize capacity and nondiscrimination alongside noise compatibility. As GAO has observed, FAA frequently concludes that projected exposure remains below the DNL 65 threshold and therefore "not significant," obviating mitigation. Judicial review in such cases centers on whether FAA followed NEPA's procedures and adequately explained its reasoning — not whether the resulting noise burdens are substantively acceptable to affected communities.

B. Noise Metrics and Mitigation

Legally, FAA evaluates aircraft noise through standardized exposure metrics embedded in regulation and policy. The dominant metric is the Day-Night Average Sound Level (DNL), with DNL 65 dB functioning as the principal threshold for land-use compatibility and, in practice, the benchmark for determining "significance" in many NEPA analyses. DNL is a 24-hour cumulative metric that applies a 10-decibel weighting to nighttime operations (10:00 p.m. to 7:00 a.m.) to account for increased sensitivity during sleep hours. By design, however, DNL averages sound energy across an entire day; it does not directly capture the frequency, timing, or maximum intensity of individual events. Courts have consistently permitted FAA to rely on DNL and related modeling tools — including noise contours generated through the Aviation Environmental Design Tool (AEDT), so long as the agency explains its assumptions and methodology. Under *Baltimore Gas & Electric Co. v. NRDC*, 462 U.S. 87 (1983), agencies may rely on established technical models within their expertise, and aviation cases have repeatedly deferred to FAA's selection of DNL as a rational analytical framework. Judicial review therefore focuses on whether the agency explained its modeling choices and inputs, not whether a different metric might better reflect community perception.

The practical consequence of this regulatory architecture is that communities exposed below DNL 65 generally cannot compel mitigation under NEPA, because impacts are deemed not "significant" under the governing criteria. Through the FAA's Part 150 Noise Compatibility Program, airport proprietors may propose voluntary measures, which include sound insulation programs, land acquisition, or limited operational restrictions, for areas within DNL 65 contours. But these measures are discretionary, subject to FAA approval, and funded through federal grants under 49 U.S.C. § 47504. ANCA further constrains new local noise or access restrictions, requiring federal review and approval before most operational limits may take effect. In combination, these statutes reinforce a framework in which averages and threshold values govern legal outcomes. So long as projected exposure remains below established contours and the agency has followed prescribed procedures, additional noise reduction is not legally required. The governing statutes do not mandate continuous reduction of community noise. They require safe and efficient airspace management and reasoned explanation of impacts. The FAA has long emphasized that they will not, for example, move a flight corridor solely to address noise impacts. There must be a "safety and efficiency" component to any such change.

Accordingly, from a doctrinal perspective, aircraft noise regulation is treated as an exercise in technical modeling and procedural compliance. Absent congressional amendment or a shift in FAA policy, the agency is not obligated to adopt stricter exposure limits or minimize noise beyond what it determines consistent with safety, efficiency, and national airspace objectives. Courts defer to that policy judgment so long as the agency articulates a rational basis for its decisions and responds to significant comments. For communities, this structure can resemble a legal ceiling: lived impacts may be documented and acknowledged, but relief depends on whether those impacts cross predefined significance thresholds or reveal procedural defects under NEPA or the APA.

III. Community vs. Legal Perspectives: Key Contrasts

Issue/Theme	Community Perspective	Legal Framework
Public Participation	Residents report a heavy burden to engage (meetings, technical comments) and often feel input is "token" or marginalized. Comments on noise are heard, but outcomes hinge on technical thresholds.	NEPA and FAA policy require public notice and comment on noise impacts. Agencies must respond to "significant" comments (40 C.F.R. § 1503.4), but courts defer to agency methodologies if explained. Community input influences the administrative record but rarely changes outcomes absent legal violation.
Noise Metrics (DNL & Modeling)	People experience noise as discrete events (e.g., night-time overflights), which they say DNL averages out. A few late-night jets feel intolerable even if DNL <65.	FAA uses DNL (with +10 dB night weighting) and other models. DNL 65 is the regulatory "significance" cutoff. Courts allow use of such metrics if the methodology is rational; FAA's tools are "established analytical" methods. Absent a legal mandate to use finer metrics, DNL remains controlling.
Environmental Justice (EJ)	Minority and low-income communities contend that concentrated flight paths often overlay disadvantaged areas, producing disproportionate burdens in sleep disturbance, stress, and quality-of-life impacts. Historically, they invoked Executive Order 12898 to argue that agencies were obligated to address these inequities.	Executive Order 12898 (1994) was formally revoked on January 21, 2025. While it previously directed agencies to identify and address disproportionately high and adverse effects, it created no private right of action or enforceable substantive standard. With its revocation, there is no longer a government-wide executive mandate requiring affirmative integration of EJ considerations. Legally, equity concerns must now be raised through NEPA's "hard look" requirement, Title VI administrative processes, or general APA review. Courts have not recognized EJ as an independent basis to compel operational changes; EJ arguments function as part of procedural review rather than as a freestanding claim.
Preemption and Control	Communities feel powerless to limit flights; they see federal decisions (e.g., procedural redesign) made far away, despite local harms. Many are unaware how to push Congress or FAA for stricter noise rules.	Supreme Court and federal law make aviation noise a federal responsibility. City, county, or state noise ordinances are preempted. Authority to change flight paths or impose curfews rests with FAA (except for voluntary Part 150 measures). Law vests "full control" with federal agencies.
Health & Welfare	Communities cite the public health impacts of noise, including sleep loss, stress, child learning issues and even heart risk from noise. They believe law should account for these concrete harms.	U.S. noise policy recognizes health: NEPA defines significance partly by "health and welfare," but FAA's benchmarks are heavily metric-based (DNL). Health studies (WHO, etc.) are persuasive but not directly codified. Courts have not extended NEPA or APA to require outcomes solely for health; they focus on process and rationality. Significant impact often means DNL >65, not explicit health measures.
Timing & Process	Residents warn of "consultation fatigue:" they must comment repeatedly (during EA, EIS, NPRMs) with little change and little recognition for their effort. They say decisions are often locked in early (e.g., runway design before noise study).	NEPA prohibits segmenting connected actions, and early scoping is encouraged. Agencies must analyze alternatives before irreversible commitments. However, law allows agencies to finalize designs if NEPA steps were followed. Courts have struck down "segmented" EAs in some cases, but absent clear legal error, FAA plans proceed. Legal emphasis is on when comment happens late objections are likely waived.

IV. Bridging the Gap – Analysis and Recommendations

The above comparisons highlight a classic tension: communities seek recognition of specific harms, while legal doctrine applies general rules. The law affords procedural rights (e.g., EIS, comments) and technical tools (noise standards) but stops short of requiring optimal noise outcomes or setting specific noise standards. This is not mere neglect but a deliberate policy balance. As one FAA noise expert notes, decisions reflect institutional prioritization. Noise abatement measures exist, but implementation is shaped by choices about capacity, efficiency, and cost.

For example, continuous descent approaches and other noise abatement flights can reduce ground noise, but FAA guidance (and airline economics) often favors routings that minimize fuel burn, not community exposure. When communities ask, "if a quieter option is safe, why not use it?" The law answers: the FAA may choose that option but is not forced by statute. The gap between what law ***permits*** and what it ***compels*** remains large.

Nonetheless, the regulatory environment is shifting in ways that communities did not necessarily anticipate. Although GAO's 2022 report called for improved communication and exploration of supplemental noise metrics, the core framework governing aviation noise has not materially changed. The DNL 65 benchmark remains the central compatibility threshold, and FAA has not recalibrated its significance standards despite updated empirical findings showing higher levels of reported annoyance at given exposure levels. At the same time, revisions to FAA Order 1050.1G following the revocation of Executive Order 12898 have reduced the formal emphasis on environmental justice analysis, returning agency practice more squarely to baseline statutory requirements rather than broader equity-oriented policy commitments. In practical terms, the shift is subtle but meaningful. The focus is now on procedural compliance and technical modeling rather than affirmative integration of community equity concerns.

The Supreme Court's recent decision in *Seven County Infrastructure Coalition v. Eagle County,* 145 S. Ct. 1497 (2025). reinforces that trend. By emphasizing NEPA's procedural nature and cautioning against expansive judicial second-guessing of agency policy judgments, the Court signaled continued deference to agency-defined scope and methodology. For regulators, airport operators, or community advocates, the takeaway is that influence will hinge less on rhetorical appeals and more on technical engagement. Agencies remain obligated to explain their assumptions, disclose modeling inputs, and respond to significant comments, but courts are unlikely to require new noise standards absent congressional direction. That reality suggests that durable change may depend not only on litigation, but on coordinated policy advocacy, congressional engagement, and sustained pressure to modernize the metrics and thresholds that currently define what counts as "significant" noise in the federal system.

Advocates increasingly call for a more honest noise discourse. One that moves beyond compliance with modeling protocols and confronts the real-world consequences of operational choices. Quieter outcomes are often technically achievable. Adjustments to dispersion, climb profiles, scheduling practices, or nighttime operations all fall within FAA's operational discretion. The limiting factor is rarely physics, it is institutional prioritization. NEPA does not exist merely to generate documentation, it requires agencies to disclose assumptions, confront significant evidence, and respond meaningfully to public comment. When updated annoyance data, health research, or localized evidence contradict legacy thresholds, the agency has a responsibility to grapple with that evidence and change its regulations rather than default reflexively to established metrics.

Courts will enforce the procedural aspects of that obligation. Courts will ensure that FAA explains its reasoning, addresses significant comments, and avoids unsupported assumptions, but they cannot resolve the substantive harm of aircraft noise under the current legal framework. Judicial review under the APA asks whether the agency followed the required steps, not whether the resulting noise burden is harming the affected communities. That distinction matters. It means that accountability cannot depend solely on litigation. If FAA is to retain public trust in increasingly noise-sensitive metropolitan regions, it must do more than compile a defensible administrative record. It must actually listen. This means reassessing outdated benchmarks when evidence shifts. Explaining transparently why alternatives are rejected. And acknowledging when efficiency trade-offs impose concentrated burdens. Without that substantive engagement, participation risks becoming procedural theater rather than meaningful governance.

In conclusion, bridging community experience and legal doctrine requires more than procedural participation. It requires reform. Communities must continue to use the legal tools available by submitting technically grounded comments, building robust administrative records, pursuing NEPA and APA challenges where warranted, and invoking equity-based review where possible. The law already contains powerful principles. Agencies may not act arbitrarily. They must disclose relevant impacts and respond meaningfully to significant evidence. When analysis omits cumulative overflights, relies on outdated thresholds, or sidesteps concentrated impacts, courts can enforce those procedural guardrails. Procedure alone, however, will not modernize noise policy.

Real progress requires structural change. That includes revisiting continued reliance on DNL 65 as the central compatibility benchmark and incorporating explicit health-based analysis and multiple noise metrics into FAA policy. It also requires transparent disclosure of modeling inputs and operational assumptions and restoration of meaningful

environmental justice integration in agency decision-making. Reform further requires acknowledgment that efficiency and capacity reflect policy choices rather than inevitabilities and that communities bear the externalized costs of those choices. Integrating lived experience into regulatory standards rather than filtering it through legacy averages is not simply responsive governance. It is evidence-based policy. Without recalibrating the metrics that define significance, the legal framework will continue to recognize harm while declining to remedy it. Durable accountability will come from updating the standards that determine when aircraft noise becomes legally unacceptable.

Contact Steve Taber

For more information about persistent aircraft noise, community harm, or other aviation and environmental law concerns, contact Steven M. Taber.

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Workplan

1. We recognize that a healthy environment is essential to the quality of life in Des Moines. To ensure that we have a healthy environment the Committee will advocate for:
    - Expansion of the air quality monitoring system and formalizing an arrangement for permanent funding, control, and management of the system.
    - An appropriate level of funding for the ongoing study of the data collected by the air quality monitoring system.
    - The addition of a nationally recognized toxicologist(s) to the team responding to the Port's Sustainable Airport Master Plan (SAMP) SEPA Draft Environmental Impact Statement (EIS).
    - Support City response and/or comments to the SAMP Draft EIS.

2. The Airport's Part 150 Study is occurring concurrent with the SEPA for the SAMP. The Part 150 Study will determine changes to the area impacted by the sound from the Airport's operations and recommend mitigation measures in three areas, operations, sound insulation, and zoning/compatible uses. The Committee believes that the result of the 150 Study will shift the burden of mitigating the noise impacts to the surrounding communities by de-emphasizing sound insulation packages and recommending significant changes to land use designations. The Committee will:
    - Support the City, as needed, in public education efforts regarding the impacts of the airport on the Des Moines Community.
    - Research mitigation measures that do not include sound insulation such as the use of eminent domain to purchase and transition affected properties to uses that can tolerate higher noise volumes and make additional mitigation recommendations.

3. The Committee is concerned that the only significant impacts noted in the SAMP NEPA are impacts on traffic. Final decision lists 10 intersections that will have "Category 1 Impacts" and none of the intersections are in Des Moines. The Committee will make recommendations to advocate for a more comprehensive traffic analysis in the SEPA process that includes impacts from WSDOT's completed HWY 509 project.

4. The Committee believes that the projected increased operations at the Airport over the next 7 to 12 years will be at least as impactful as the 3rd runway and even more so. Towards the middle of 2026, when our citizens are more aware of the full scope of the SAMP, the Committee would like to develop a community survey to determine where the

community is in terms of awareness. This will provide the Committee with an opportunity to adjust our recommendations for outreach efforts.