

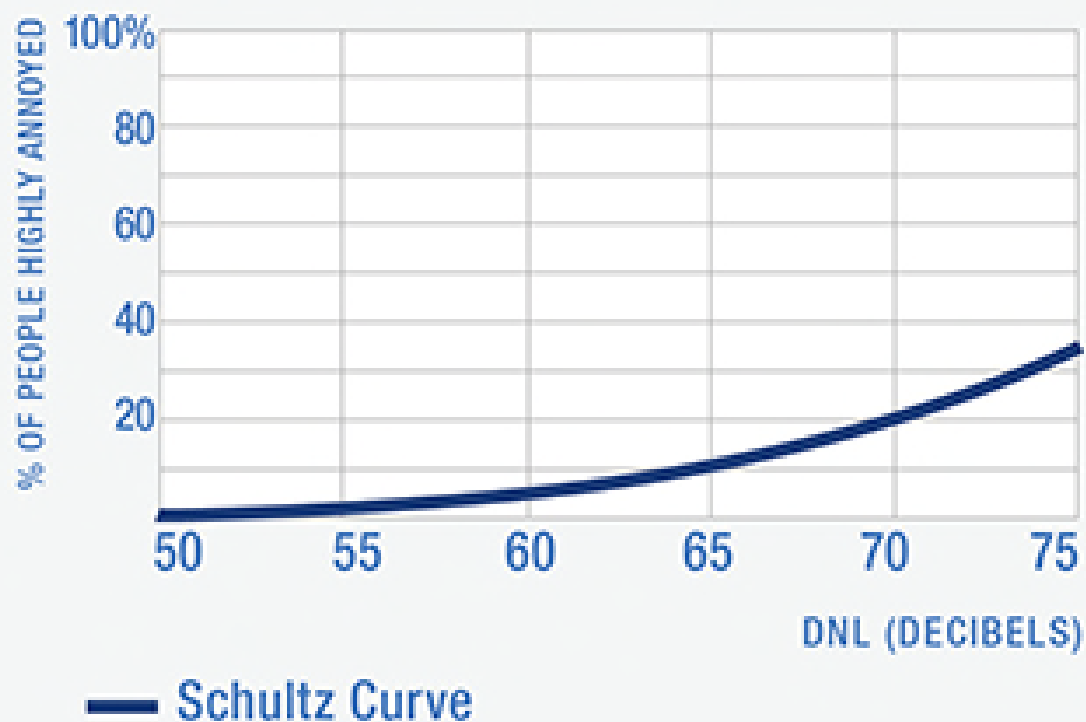
Aircraft Noise and Emissions Legislation in the Next Congress: Priorities, Perspectives, and Predictions

Peter J. Kirsch

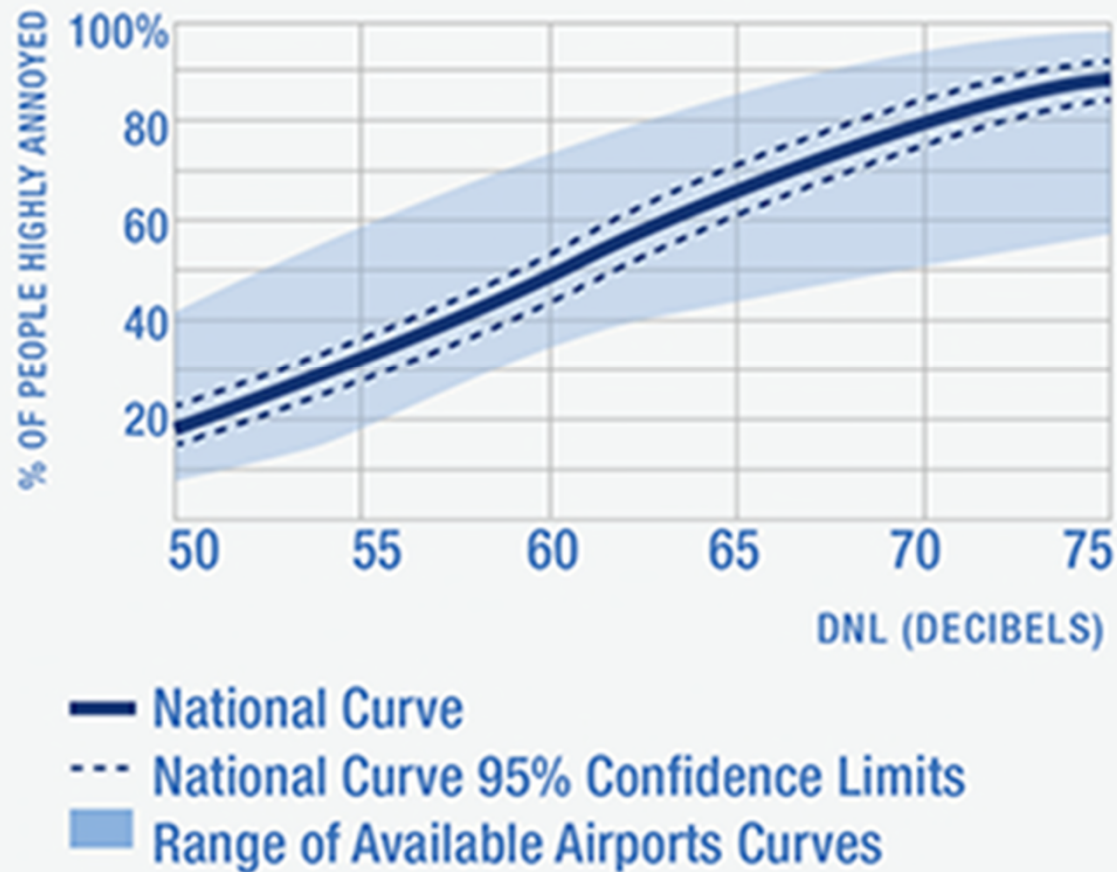
Aviation Noise and Emissions Symposium
February 26, 2021



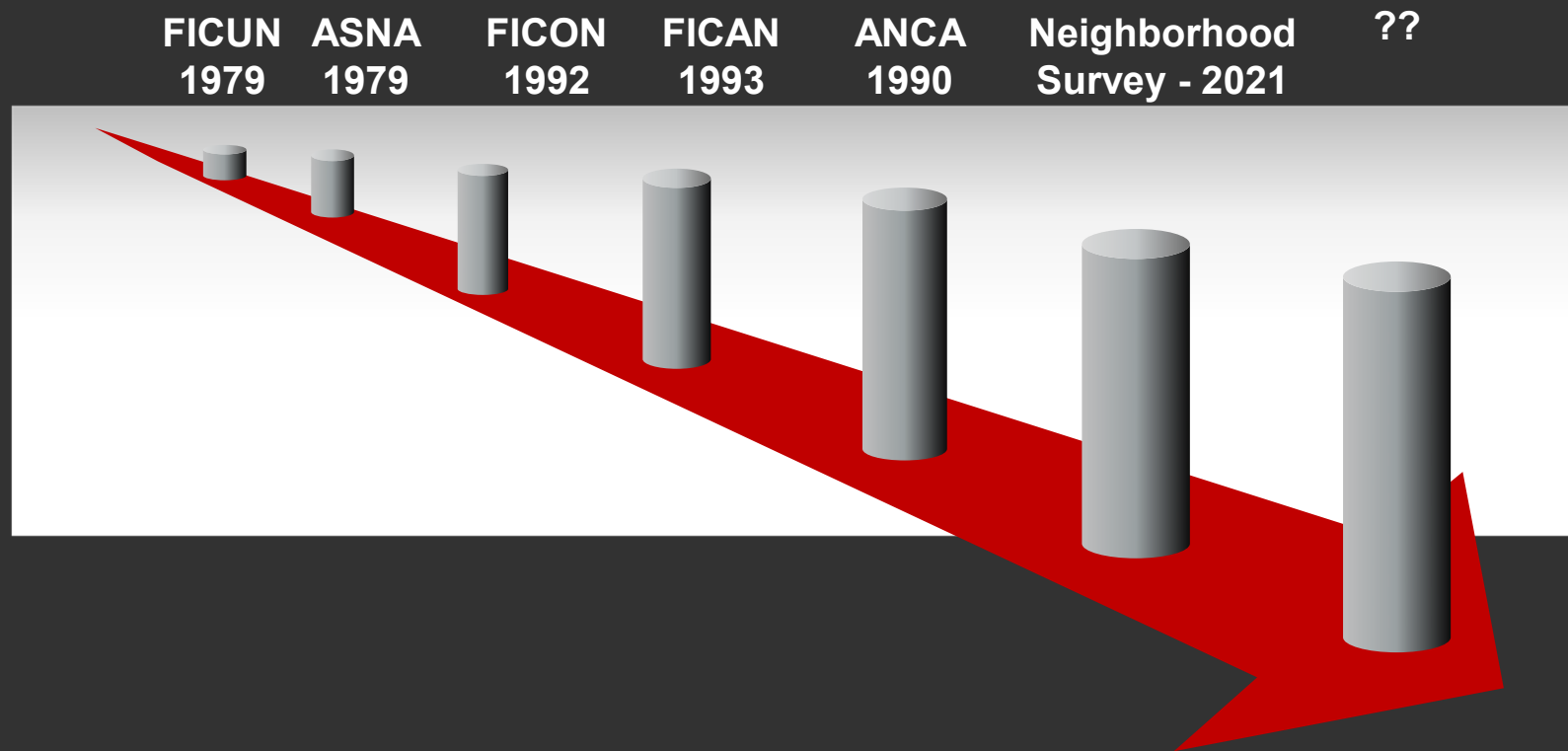
SCHULTZ CURVE



NATIONAL CURVE



How did we get here?



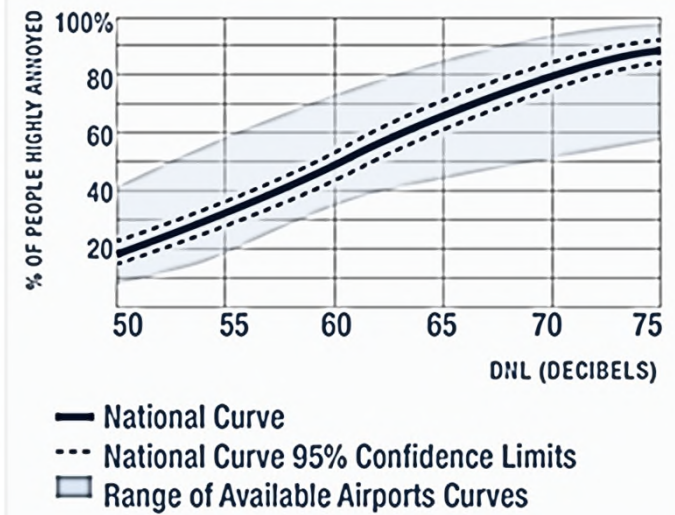
New noise annoyance data

- New foundation for all legal discussions of noise
- Pressure on regulators (FAA) and legislators (Congress) and sponsors (airports) to adapt to findings from *Neighborhood Environmental Survey*
- Does it remain legally permissible to continue to rely on 65 dB DNL threshold?

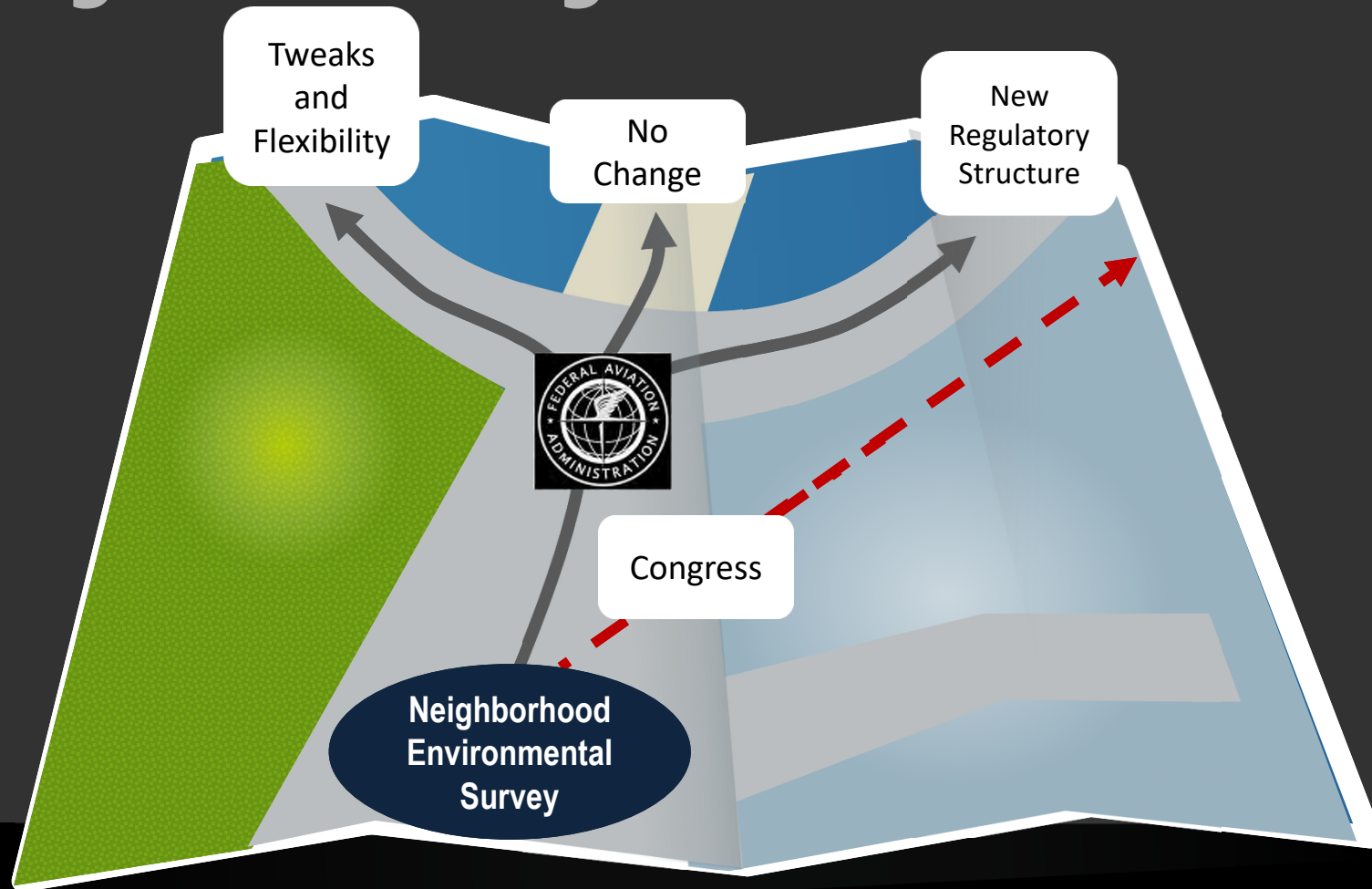


Now what?

NATIONAL CURVE



The long and winding road . . .



Legal considerations

- The 65 dB DNL threshold was developed for a narrow purpose in the 1970s-80s
- Acceptance evolved, gradually becoming more widespread
- Use of 65 dB DNL threshold is today enshrined in law, regulations, policies, guidance, past practice (legal precedents)
- Changes to those legal documents must be –
 - Transparent
 - Thoughtful
 - Collaborative (public comment)



In the meantime....?



OR



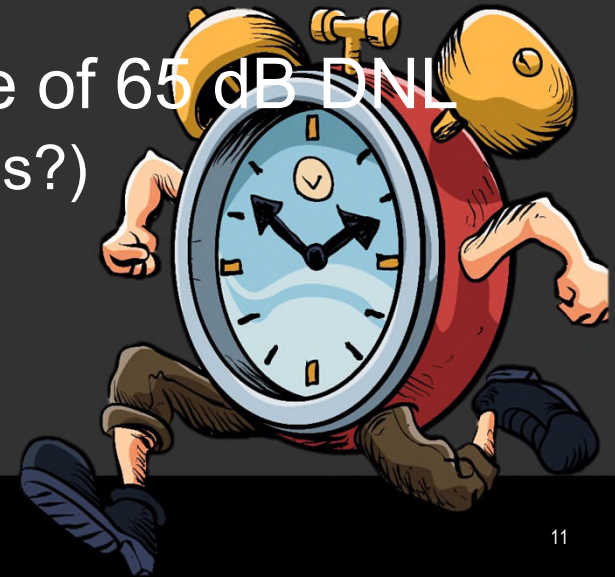
Some reasonable options (FAA only)

- Revisions agency-wide in metric (DNL) or threshold (65 dB DNL)
- Selected revisions –
 - NEPA/ Section 4(f)/ NHPA
 - Part 150
 - Part 161
 - Airport revenue use
- Just FAA or government wide
(EPA, HUD, VA, other DOT modal agencies)



Triggers/policy considerations

- New administration focused on climate change and environmental justice
- Will public, Congress accept more studies?
- Pressure to act (now)
- Transition – what does that look like?
- Potential legal challenges to continued use of 65 dB DNL
 - FAA NEPA documents (arbitrary and capricious?)
 - State law (California especially)



Implications of changes

- ✓ NEPA documentation (scope)
- ✓ State environmental reviews
- ✓ Section 4(f) determinations (parks, historic properties)
- ✓ Part 150 mitigation funding
- ✓ Airspace redesign
- ✓ Federal funding for other mitigation (AIP eligibility)
- ✓ Revenue use by airport sponsors (outside 65 dB DNL)
- ✓ Noise reporting generally





Congressional interest: statutory revisions



Quiet Skies Caucus



Hot Congressional topics

- Metroplex and NextGen (appropriateness of DNL metric generally)
- Thresholds
- Local flexibility on restrictions (revise ANCA)
- Studies, studies, studies
 - Another FICUN (1979); FICON (1991); FICAN (1993)
 - Independent review?
 - Blue ribbon commission?





Reference materials



Legal Authority – Key statutes

- **Aircraft Noise Abatement Act of 1968 (49 U.S.C. 44715)**
 - FAA may prescribe standards for measurement and regulation of aircraft noise
- **Aviation Safety and Noise Abatement Act of 1979 (ASNA) (49 U.S.C. 47501 et seq.)**
 - FAA may regulate “air noise compatibility planning”
 - FAA may fund airport projects in an approved noise compatibility program
 - FAA may establish standards for measuring noise impacts
- **Airport Noise and Capacity Act of 1990 (ANCA) (49 U.S.C. 47521 et seq.)**
 - Phase-out of Stage 2 aircraft > 75,000 pounds
 - Limits on any restrictions of Stage 2 and Stage 3 aircraft
- **FAA Modernization and Reform Act of 2012 (P.L. 112-95)**
 - Ban on almost all Stage 2 aircraft after December 31, 2015
- **FAA Reauthorization Act of 2018**
 - Section 163 limits FAA authority over considerable airport land uses



Legal Authority – Key regulations

■ **Part 36**

- Noise Standards: Aircraft Type and Airworthiness Certification (1969, as amended)

■ **Part 91, Subpart I**

- Operating Noise Limits (1976, as amended)

■ **Part 150**

- Airport Noise Compatibility Planning (1984, as amended)

■ **Part 161**

- Notice and Approval of Noise and Access Restrictions (1991)



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