

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D. C. 20590

STATEMENT OF OSCAR BAKKE, ASSOCIATE ADMINISTRATOR FOR PLANS, FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE REGARDING S. 1117 AND H.R. 5492 ON TUESDAY, JUNE 22, 1971

Mr. Chairman and Members of the Committee:

I am Oscar Bakke, Associate Administrator for Plans of the Federal Aviation Administration, Department of Transportation. With me today is Dr. John O. Powers the Acting Director of the FAA Office of Environmental Quality. I welcome this opportunity to present the views of the Department of Transportation concerning S. 1117 and H.R. 5492. These bills would establish a detailed statutory scheme for protecting the public from civil aircraft sonic boom. The Department of Transportation appreciates the public apprehension and deep environmental concern that led to these bills and offers these comments in the same spirit. The Department of Transportation has no objection to the enactment of this legislation should the Congress in its wisdom determine that the sensitive matter of protecting the public from sonic boom should be handled by express legislation rather than by administrative regulation under existing statutory authority.

As this Committee is aware, the FAA has formally proposed the adoption of Federal Aviation Regulations that would accomplish the

purpose of the proposed legislation. We received an unusually articulate and large range of public comments in response to our proposed regulations to prohibit sonic boom. Having lived with these comments for some time, and having considered their implications for the long-range planning of the National Aviation System, we are convinced that there is real merit, environmental as well as technological, in proceeding by regulation rather than legislation. There are three reasons for this position:

First, the National Environmental Policy Act of 1969 and implementing Executive Orders and guidelines would effectively preclude the issuance of an environmentally unacceptable sonic boom regulation or the weakening of an environmentally acceptable sonic boom regulation. This is assured because that action would have to be thoroughly reviewed by, and fully justified to, the public under these new laws and procedures. These safeguards are coupled with the current level of environmental awareness in the FAA and the assistance and consultation of the President's Council on Environmental Quality and the Environmental Protection Agency. The Congress established this formidable array of procedures precisely to ensure the environmental effectiveness of the Executive Branch in situations just like the regulation of sonic boom. In effect, the Congress wished to take itself out of the business of management of individual programs that affect the environment. These new mechanisms are working today, and should be given a chance to continue to do so.

Second, the managerial imperatives of aviation system planning require administrative flexibility to meet new challenges with new administrative tools. For example, the "designated flight test area" concept as an administrative tool in the two bills is useful now but may be made obsolete almost overnight by new air traffic management capabilities, equipment, or safety requirements. The problem of rapidly changing aeronautical technology militates against the use of detailed legislation to protect the public from sonic boom. "Freezing" such concepts in statutory law greatly limits the decisional options available in dealing with airspace management problems.

Third, the technology of environmental protection is itself changing rapidly. New and fruitful technological opportunities for protecting the public from sonic boom can be offered if today's technological concepts are not "frozen" by statute. Similarly, FAA use of new remedial environmental technology to better protect the public can be prompt and responsive only if regulatory discretion to act with the times is not unduly constrained by statute. For example, flight restriction predicated upon "true flight Mach number" as used in the bills may be an appropriate concept today but rendered obsolete by a better parameter tomorrow. Yet the bills tend to crystallize current concepts. What the Congress legislates today will have to be frequently amended as environmental and aeronautical technology advance, or we will soon find ourselves being managed by our own past.

In short, we appreciate the urgency that led to the introduction of S. 1117 and H.R. 5492. We will understand if this Committee decides to legislate public protection from sonic boom. But we think there are good and sound reasons for the Committee not to wish to enter, in effect, into the management of the National Aviation System at this critical point in the dynamic history of public air transportation.

Assuming, however, that legislation based on S. 1117 and H.R. 5492 is enacted, we would like to address several issues raised in the Committee's letter of 9 June 1971 to Secretary Volpe.

With respect to the question of the possible effects of the bills on State legislative actions to ban supersonic transports from individual states, we believe that the legislative history should follow the lead set in Senate Report 90-1353 in 1968 when FAA's current noise and sonic boom abatement authority (P.L. 90-411) was enacted. That Report states that "since the flight of aircraft has been preempted by the Federal Government, State and local governments can presently exercise no control over sonic boom. The bill makes no change in this regard." (S.Rept. 90-1353, p.7) In addition to the questionable logic of any proposed state legislation providing that subsonically operated supersonic aircraft be excluded from airspace available to subsonically operated subsonic aircraft, it is clear that any weakening of Federal preemption concerning the flow of air commerce in the navigable airspace would have wide ranging implications throughout the national air transportation system and should be avoided.

Our opinion was requested concerning whether or not specific overpressure limits should be established for sonic booms in particular areas. The matter of sonic boom overpressure limits is complex. The controlling factor in any policy in this area is whether you can assure that the limit will not be exceeded in operation. While much is known about sonic boom generation, propagation, and variation due to aircraft design and atmospheric conditions, these conditions, particularly the atmospheric variables, do not yet permit us to predictably and repeatedly generate booms having controllable levels. Even if this problem is overcome, there remains the problem of assigning tolerance or acceptability values to given overpressure levels and if in fact overpressure itself is the proper measure for sonic boom criteria. More research is necessary before we can satisfactorily resolve these difficulties. It is for these reasons that the President and the Secretary have assured the Congress that no sonic boom will be permitted over populated areas. We intend to honor this pledge.

We were also asked whether specific sideline noise limits for supersonic aircraft should be established. Here again, as in the sonic boom area, the FAA has taken positive steps. On August 4, 1970 the Administrator issued an Advance Notice of Proposed Rule Making covering all aspects of supersonic aircraft noise. This Notice sought public comments on the problems of approach noise, takeoff noise, and sideline noise as they relate to the supersonic aircraft.

Based on comments received, we are now in the process of developing specific standards for supersonic aircraft that include sideline noise limits. Compliance with these standards will be required prior to the issuance of a type certificate for any supersonic aircraft.

Finally, to reflect the termination of the United States Supersonic Transport Program, we think that deletion of subsections (h) and (i) of the bills would be appropriate.

This concludes my prepared statement, Mr. Chairman. My associate and I will be pleased to respond to any questions that the Committee may have.