

STATEMENT OF THE HONORABLE QUENTIN S. C. TAYLOR, DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE, CONCERNING THE AVIATION SAFETY AND NOISE REDUCTION ACT. JUNE 12, 1979.

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before you today to discuss H.R. 3942, the proposed Aviation Safety and Noise Reduction Act, which is currently pending before your Subcommittee.

I believe it is important for this Subcommittee to carefully review this proposed legislation because in our view H.R. 3942, as recently reported out of the Public Works and Transportation Committee, is unacceptable, and we oppose its enactment.

Titles I and II are premature, insofar as they would authorize increased funding levels for noise planning and airport aid projects; they propose concepts and funding levels which should be considered by the Congress as part of the pending review of the Airport and Airway Development Act. Title III would adversely affect current FAA noise control regulations and limit our authority to issue future noise regulations. And,

Title V would severely inhibit the FAA in taking future actions to improve air safety. Let me examine each of these criticisms in more detail. First, though, I would like to briefly provide you with some of the background of the Department's efforts to reduce aircraft noise.

The problems of excessive aircraft noise plague literally millions of people near our airports today, and present a formidable challenge to all of us in the aviation community. Aircraft noise is by no means a new problem, having been with us largely since the advent of the jet age in the late 1950s. The problems have grown significantly with the passage of time due to steadily increasing levels of aircraft operation, new and expanded airport facilities, and, in many cases, increasing residential development around airports. Recent increases in aircraft activity have further compounded the problems experienced with aircraft noise, and it is clear that activity levels will continue to increase as the beneficial aspects of the Airline Deregulation Act of 1978 become more evident in this country at small and large communities.

We cannot be satisfied with our efforts to date in controlling aircraft noise, and we must continue to take positive actions to alleviate further this adverse impact on our quality of life.

The Department of Transportation has long recognized the need to reduce all aspects of transportation noise, particularly aviation noise, and has worked diligently to do just that. Without belaboring past history, I believe it is worthwhile to recall briefly some of the actions we have already taken in this respect.

As you know, the Congress first gave us authority to control aircraft noise and sonic boom in 1968, through an amendment to the Federal Aviation Act of 1958. We acted quickly to impose strict noise standards for new design jet airplanes in 1969 with the initial issuance of Federal Aviation Regulations, Part 36. Our amendments over the ensuing ten years reflect a deliberate but progressive program to expand the scope of aviation noise controls and to increase their stringency as technology allowed us to do so. Thus, for example, the original noise standards were expanded in 1973 to apply to new

domestic production of older design airplanes such as the 707s, 727s, DC-8s, DC-9s, and 737s.

In 1976, we extended the noise standards to all large subsonic turbojet airplanes, including those built before 1973, as a condition for operation in this country. In 1977, we increased the stringency of the noise limits for the next generation of aircraft, such as the 757s and 767s, which we refer to as Stage 3 aircraft.

Along the way, we have acted in other areas of aviation noise by specifying noise limits for new-design and new-production small propeller-driven airplanes, by prohibiting sonic booms over our country from civil aircraft, by requiring and encouraging safe operational procedures which reduce noise impacts, and by extending subsonic noise limits to supersonic aircraft. I believe this program represents an effective Federal role in limiting aviation noise impacts. But, we recognize that our regulations have not "solved" the aviation noise problem. Regulation of aircraft noise alone will never completely eliminate noise problems, because aircraft, even the

quieter new technology types, will always make some noise because of the nature of their propulsion system and their movement through the air. Safe noise abatement operation procedures and effective land use around airports can and do help, and must complement noise reduction at the source if we are to reduce the undesirable effects of aviation noise.

Though our regulations are not a panacea for the noise problem, I would like to emphasize our strong commitment to the noise regulations which we issued in December 1976. We believed at the time they were issued that they represented a balanced approach to reducing exposure of millions of Americans to aircraft noise while imposing reasonable requirements upon the airlines. We retain that belief today. In fact, one of the specific findings we had to make when we issued the regulations was that they were economically reasonable. That finding was supported by the facts. Contrasting our findings in 1976 with the situation of today--1979--it is apparent that the regulations are eminently more reasonable from an economic perspective at the present time than they were when issued. Last year, the U.S. scheduled airlines alone reported profits over one billion dollars. And, I would reemphasize our

regulations were found to be economically reasonable when they were issued. Therefore, any notion that the airlines are in need of relief from the regulations seems to me to be misplaced. The burden of retrofitting an airplane is just not that great, particularly for the two and three-engine aircraft for which the costs vary from \$200,000 to \$300,000.

While I maintain that the cost of complying with our noise regulations is not that substantial, the failure to proceed with these regulations on a timely basis would result in substantial cost. Decreasing property values, the liability of airport proprietors for monetary damages, continuing delay in obtaining needed airport improvements--these are "pocketbook" issues which result directly from noise. Focusing on cost alone ignores, of course, the noise relief which would be offered by compliance with our noise rules to millions of people nationwide. FAA studies show compliance with our regulations will remove approximately one-third of the estimated six million airport neighbors from unacceptable noise exposure levels, and will provide significant reductions in noise exposure for those who remain within impacted areas.

We recognize that these rules are not perfect and that is exactly why we recently proposed a further amendment to them. Specifically, we have proposed the inclusion of "re-engining" within our definition of replacement aircraft so that approved replacement plans can incorporate in them the re-engining of aircraft to meet Stage 3 noise limits as an acceptable alternative to replacement of the entire aircraft. Further we propose to require plans from the airlines to show how they intend to achieve compliance with our noise rules. I might add that we are already aware of the plans of several of the carriers, and we are gratified by the commitment to noise reduction they have demonstrated. For example, Delta Air Lines has announced that it has ordered retrofit kits for its fleet of 44 DC-9s, and Continental Air Lines has announced that it will retrofit 44 of its 727s, to bring its entire fleet into compliance.

A review of compliance plans and further discussions with manufacturers of retrofit kits will enable us to better project whether the supply of such kits will be timely to meet the demand. This in turn will enable us to assess in an informed

manner whether waivers of our compliance deadlines may subsequently be warranted in the public interest for certain operators. We are certainly not encouraging requests for exemption from our regulations, but we believe it should be made clear that we intend to be reasonable in the application of these regulations.

Another point I would like to make concerns all the discussion of encouraging the purchase of new technology aircraft. We fully agree that new technology aircraft offer substantial benefits both in terms of noise reductions and fuel efficiency. That, of course, is why we structured our noise regulations to permit waivers of interim compliance deadlines if replacement aircraft are purchased. On the other hand, retrofit offers meaningful benefits, too, in terms of noise relief. Our compliance regulation was carefully formulated to require use of available, demonstrated noise reduction technology to achieve significant noise abatement. It has been suggested that some models of the smaller two- and three-engine aircraft are only slightly over the required noise standards, so that meeting the standards will achieve little actual noise reduction. This is incorrect. Retrofitting of those aircraft will provide meaningful noise reductions--as much as eight

decibels at locations under the approach paths. We have measured these reductions in actual operations at U.S. airports, and the application of this demonstrated retrofit technology will bring most models below our noise limits with meaningful noise relief provided to airport neighbors.

I would like to turn now to the bill under consideration by your Subcommittee: H.R. 3942. Titles I and II address land-use compatibility planning and authorize additional funding for this purpose from the Airport and Airway Trust Fund. We are in general agreement with the concept of voluntary airport noise abatement and compatible land-use planning proposed in Title I, and we consider this consistent with our own programs and policies in this area. We recognize that much work needs to be done by airport proprietors and local governments in protecting the public health and welfare of airport neighbors, and have promoted such activities in our airport and airway legislative proposal, in a manner which is consistent both with overall aviation and anti-inflation policies.

We are strongly opposed to the increased funding levels. The President's 1980 Budget contains adequate funding levels to meet all priority project needs in both the airport grants and facilities and equipment areas. At this time, when we should be exercising fiscal constraint, we believe that arbitrary increases in spending levels could work against the Administration's efforts to fight inflation. We also believe that it is premature for the Congress to act in this regard, pending a comprehensive review and revision of the Airport and Airway Development Act which expires next year. We believe that expanded funding levels should be considered as part of your overall legislative review of our proposed legislation.

As I stated a moment ago, we believe Titles I and II should be considered as part of the Congress' legislative review of the Airport and Airway Development Act. At that time, the Administration's proposals which deal with noise planning can be carefully assessed and levels of funding taken into consideration. Though we believe that noise planning efforts

should be strengthened, there are features, apart from the funding levels, which make Titles I and II objectionable. For example, Sections 106 and 107 prohibit the use of noise exposure maps in legal proceedings--whether Federal or state--and restrict a person's right to bring suit in Federal or state courts for damages resulting from noise. We believe the public should have the right to use technical data concerning noise exposure in legal proceedings. Beyond that, the issue of restricting suits in state courts should be left to the states and, in our view, is not properly the subject of Federal legislation.

Sections 206-211 are also objectionable. They specify a number of projects to be undertaken at specific airports. These projects have been added arbitrarily to the pending legislation without regard to the merit of the projects vis-a-vis other projects which could be undertaken. We oppose the arbitrary funding of projects without an examination of their relative priorities in the context of the needs of the total air transportation system.

Another example of a provision we do not favor is Section 212 which would direct the Secretary of Transportation to study the health aspects of noise. There have already been a number of studies performed and, in our view, we have reservations about the merits of funding additional studies. Notwithstanding that concern, we do not possess the expertise in the Department to conduct such a study and, in that respect, the section is misdirected.

Title III of H.R. 3942 would severely affect the FAA's regulatory authorities in dealing with environmental matters. Portions of this bill would undercut the FAA's ability to control aviation noise as we are mandated to do by the Federal Aviation Act, as amended by the Noise Control Act of 1972 and the Quiet Communities Act of 1978, by directing certain regulatory actions and by restricting other actions. Let me explain.

Section 302 directs the Secretary of Transportation to impose noise standards on aircraft operated in foreign air transportation. As we have said in the past, we intend to initiate rulemaking on this subject if satisfactory international agreement on this point has not been reached by

1980. In that respect, I should point out that the ICAO Council has recently acted on the subject of international noise compliance, recommending that such compliance not be required before January 1, 1988, and then only at those airports which are designated as having a noise problem. We currently plan to propose regulations which will include international operations in our present noise compliance regulations, with a deadline of January 1, 1985.

There are a number of problems with Section 302. The wording contained in Section 302 is undesirably restrictive, requiring all aircraft operated by air carriers to comply with our domestic regulation at the same phased rate of compliance. This wording in part goes beyond our domestic regulation, which requires compliance only by subsonic turbojet-powered aircraft over 75,000 pounds maximum certificated gross weight. In part, the wording does not go as far as our domestic regulation, since it only applies to air carrier operations, and not to commercial operators and others who do not engage in common carriage. Finally, it may not be reasonable to require international operators to meet the same phased timetable as

our domestic operators. The international operators will have one year or less until the first interim deadline, and compliance with such a deadline may be neither reasonable nor even possible in certain cases. We believe that the regulatory process provides a more flexible forum in which detailed provisions may be assessed after a full opportunity for public comment. In addition, we believe that this provision is unduly restrictive of the Executive's flexibility and responsibility to negotiate an internationally acceptable solution which is also compatible with U.S. domestic standards. For these reasons, we recommend that such a requirement not be legislated by the Congress, and that our rulemaking processes be permitted to address this issue.

Section 303 directs the Secretary to study the feasibility of extending the more stringent, Stage 3 noise standards to newly-produced aircraft of older designs, in the same manner that Stage 2 noise standards were extended to newly-produced aircraft in 1973. Subsections (b) and (c) would then prohibit the issuance of noise regulations more stringent than those currently in effect for 180 days after the findings of

subsection (a) are reported to the Congress, and would permit a one-House Congressional veto of noise standards proposed thereafter. We find these provisions especially objectionable. First, these provisions effectively limit the authority of the Secretary under Section 611 of the Federal Aviation Act by imposing further constraints on noise control rulemaking. Secondly, although perhaps not intended by the drafters of this section, these provisions would prohibit us from any other type of aircraft noise regulation, such as the noise standards which we are about to propose for helicopters, for approximately 1-1/2 years after the bill's enactment. We believe these restrictions are unnecessarily broad in scope, and unduly restrictive to the authority of the Secretary in carrying out the policy mandates of the Noise Control Act of 1972. Beyond that, the President and the Attorney General have stated that legislative vetoes are unconstitutional restrictions on the Executive Branch's duty to execute the laws and the President's role in the legislative process. The Congress, for a number of reasons, has delegated rulemaking authority to the FAA and this authority should remain within the purview of the FAA subject to the redirection of Congress expressed in a joint resolution or by statute.

Section 305 would exempt 727s, 737s, DC-9s, and BAC-111s from the noise compliance regulations, if the airplanes serve primarily medium and small hub airports. We believe that enforcement of this would be extremely difficult since it depends on an individual airplane's scheduling, and would require submission and review of a great deal of information. This section would attempt to ensure that medium and smaller airports will be served by the older, noiser aircraft, but, in so doing, these noisy aircraft could still operate up to 40% of the time into major hubs; major hubs being of course where serious noise problems are currently being experienced. Because this provision weakens our noise compliance regulations, and would be a nightmare to enforce (for example, different aircraft are frequently routed between city pairs using the same daily flight number), we strongly urge that Section 305 not be enacted.

Section 306 may be the biggest "sleeper" in the proposed legislation. This restriction could extend beyond its intended purpose of preventing any further noise retrofit requirement for ten years, and could also negatively affect the FAA's authority to enforce aircraft engine air emissions standards

established by the Environmental Protection Agency. We have stated that we do not foresee any further requirement for noise retrofit of existing aircraft once our 1976 regulation is implemented, since the technology which might permit that requirement is not presently available. Therefore, we feel that this provision is not only unnecessary but unduly restrictive, and we oppose its enactment.

Section 308 is also quite troublesome to us. Although the full effect of the section is not clear to us, it is apparently an attempt to shift some of the liability for noise damages from state and local governments to the Federal Government. Though we are unable to quantify the amount of damages to which the Federal Government would be exposed, we strongly oppose such a shift in liability. We see no justification for subjecting the Federal treasury to liability for noise damages. The proper way to deal with the noise problem is not to apply the "deep pocket" theory but to reduce the harmful effects of noise through regulation at the source and through effective land-use planning.

Recognizing that Title V of the bill is not really within the jurisdiction of the Subcommittee, I nevertheless would like to briefly discuss it so that you can get a feel for just how pervasive the objectionable features of the bill are. Many of you are probably aware of the FAA's recent rulemaking proposals to provide greater control over the navigable airspace to reduce the threat of midair collisions. This rulemaking activity has resulted in a significant number of objections, primarily from the general aviation community. Because of these concerns, we appeared before the House Subcommittee on Aviation on the proposal and Administrator Bond clearly indicated at that time that the airspace actions under consideration were merely proposals which would be reviewed and revised in the context of the substantial public comments received. Further, he expressed the view that the needs and desires of the general aviation community would receive careful attention. Nevertheless, an amendment was added to H.R. 3942 to preempt this rulemaking. That amendment, Title V, would overturn by statute the FAA's present rulemaking activities before a final proposal has even been generated by the FAA. We believe this would be a most unfortunate precedent for the Congress to intercede in the midst of a safety rulemaking

process before a final rule, reflecting substantial public comment, has been developed. Let me quote from the dissenting views of Representatives Mineta, Levitas, Ferraro, and Gingrich on this aspect of the legislation:

"(A)n amendment was accepted which places a virtual prohibition on the FAA's ability to add new requirements for air traffic control procedures. Although we may not all agree with the air space proposals recommended by FAA recently, any attempt to prohibit FAA from implementing any flight rule changes is a substantial threat to aviation safety. In addition, the FAA has not even come up with a final proposal on their new air space rules. There has been a tremendous outpouring of public comment submitted to the FAA that is still under consideration. The FAA Administrator has said in testimony that the public comment will be taken into account when the final version of the rules is written. It is premature, on a matter of safety, to deprive the agency with jurisdiction over air safety of the opportunity of even offering regulations after public comment has been solicited."

Similar views were expressed by Chairman Anderson and Representative Goldwater. I think it's important to note that Mr. Goldwater expressed opposition to the amendment as a "dangerous" precedent despite the fact that he agreed "with the amendment's supporters that FAA's proposed rules in this regard will most probably be ineffective in improving the safety of air travel and will be unnecessarily harmful to general aviation".

Mr. Chairman, we urge the Members of this Subcommittee to assist us in our efforts to proceed with our aircraft noise reduction regulation as it currently stands, with the refinements we are proposing, and we seek your help in allowing us to enforce compliance with the regulation. We issued the regulation in December 1976, believing it to be the best available approach for achieving meaningful noise abatement for the citizens of this country without imposing an unreasonable burden on our air transportation system. We believe the regulation still represents the best balancing of those factors. With your support we can make it work.

In sum, for the reasons we have set forth above, we find H.R. 3942 unacceptable and strongly oppose its enactment.

That completes my prepared statement, Mr. Chairman. We will, of course, be pleased to respond to questions you or Members of the Subcommittee may have.