

We concur in the views expressed by the Secretary of Transportation and for the reasons stated in his report we recommend against favorable consideration of H.R. 14146.

Sincerely yours,

WILFRED H. ROMMEL,  
*Assistant Director for Legislative Reference.*

DEPARTMENT OF TRANSPORTATION,  
OFFICE OF THE SECRETARY,  
Washington, D.C., March 1, 1968.

HON. HARLEY O. STAGGERS,  
*Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: I refer to your request for this Department's comments on H.R. 14146, a bill relating to aircraft noise regulation. This is a bill proposed by the Air Transport Association of America (ATA) in testimony before the Transportation and Aeronautics Subcommittee last fall.

The ATA bill would require the Administrator of the Federal Aviation Administration to prescribe standards for the measurement of aircraft noise and sonic boom and to issue aircraft type certificates if the aircraft for which the certificate is sought meets noise standards. It would also authorize the Administrator to issue an order amending, modifying, suspending or revoking an aircraft type certificate if such action was necessary "to encourage progress in aircraft noise or sonic boom abatement" and if required in the public interest. Such orders would be subject to appeal to the National Transportation Safety Board and subsequent judicial review. The ATA bill would prohibit the Administrator from amending, modifying, suspending, or revoking any airworthiness certificate for purposes of aircraft noise or sonic boom abatement.

The Department is opposed to the ATA version of the noise abatement bill for a number of reasons:

1. The ATA bill would vest the authority for regulation of aircraft noise and sonic boom in the Administrator of the Federal Aviation Administration rather than the Secretary of Transportation. ATA offers as the reasons for this change from the Administration's bill the arguments that it would require the issuance of two type certificates, one for noise and one for safety, and that, in authorizing the Secretary to promulgate noise and sonic boom regulations, it could operate to subvert safety considerations to noise and sonic boom judgments.

- Only one certificate would be issued, and two. The Secretary's authority under existing statutes to carry out operating programs has been routinely delegated to the Administrators of the modal administrations within the Department. In the same manner the administration of aircraft noise and sonic boom certifications would be operationally carried out by the Administrator of the Federal Aviation Administration in conjunction with his present activities relating to air safety. FAA personnel regularly engaged in certification activities would simply apply the noise and sonic boom standards in the course of their certification work. The practical administrative effect, therefore, would be similar to that proposed in the ATA bill. The difference, and we believe it to be a significant one, is that final decision-making authority with respect to noise abatement and sonic boom standards would be available to the Secretary should he choose to exercise it.

The ATA argument that safety considerations may be ignored if the Secretary is authorized to establish aircraft noise and sonic boom standards is difficult to understand. First, it overlooks the fact that the Department is totally committed to assuring safety in aviation and all other modes of transportation. Second, it overlooks the fundamental manner in which noise standards and safety standards interact. Both noise standards and safety standards must be set with full knowledge of, and complete reliance on the state of the aeronautical art. It would be clearly unreasonable to establish a noise standard having an adverse effect on safety which could not be corrected or compensated for by our existing technical knowledge. The real issue which is present, even in our current certification processes, concerns the cost of complying with a standard and whether the benefit is worth the added cost.

The FAA Administrator, acting under delegation from the Secretary, would not be free to set a noise standard without taking into consideration all its costs,