

including those necessary to maintain an adequate level of safety. To assume that he or the Secretary would fail to weigh safety considerations, or weigh and then disregard them, is simply untenable. The need for compensating measures necessary to maintain safety, and their costs, would have to be considered in determining the reasonableness of the Government's action to apply a noise standard.

In vesting authority directly in the Administrator rather than the Secretary, the ATA bill is attempting to draw an analogy from the Department of Transportation Act. However, the logic of the statutory delegation of certain safety functions to the modal Administrators in the Department of Transportation Act, which was to insulate the safety regulatory function, has no application in the aircraft noise area. Congress has specifically directed the Secretary to develop a national transportation system which is compatible with other objectives, one of the foremost of which is improving the quality of our environment. The control of aircraft noise and sonic boom raises fundamental questions as to the compatibility of air transportation with the rest of our environment. The judgments to be exercised with respect to the environmental compatibility of our transportation systems are precisely the ones which are not best reserved to the Administrators of the modes of transportation involved. These broad environmental issues require a balancing of national interests, for which the Secretary must assume the ultimate responsibility within the Department.

2. The ATA bill seeks to make mandatory the imposition of aircraft noise and sonic boom certification. ATA argues that this is necessary in order to achieve maximum preemption by the Federal Government of the field of aircraft noise regulation. As a practical matter, and as ATA concedes in its testimony, the only regulatory authority left to local communities or airport operators is the authority of the airport operator, in the exercise of its proprietary function, to limit on noise grounds the kind of aircraft which may use its facility. The Department is firmly convinced that such authority in the airport operator should continue. Local communities should, if not inconsistent with overriding national interests, have the option to determine the effects of transportation on their environment. We do not believe that the mere presence of authority in the Federal Government to certify for noise purposes, or the exercise of that authority, should foreclose an airport operator from exercising his judgment or responding to the desires of the community with respect to aircraft noise. An action by an airport proprietor to exclude aircraft which exceed noise levels established by him does not conflict with the Federal authority to regulate air traffic.

The exercise of this and other authority by local communities should continue. Local communities select airport sites and determine where they best will serve community needs. They bear the responsibility for insuring compatible land use in the airport environs. They have the necessary promotional, proprietary, planning and land use authorities to carry out this responsibility. They have a very influential voice in determining the type of service they want through their appearances in route proceedings before the CAB. In short, given the limits imposed by aeronautical technology, the community can and should continue to bear a heavy share of the responsibility for assuring the compatibility of the air service they seek and enjoy with the environmental objectives of the community.

This combination of local authority and local interest provided the rationale for the Supreme Court's decision in *Griggs v. Allegheny County* in which the Court found the local airport authority, rather than the Federal Government, responsible for a "taking" of property due to aircraft noise. It would be unwise to take action which could raise argument undermining this rationale. We believe that total preemption of the aircraft noise regulatory field by the Federal Government, as recommended by ATA, could be so regarded.

3. The scope of the bill proposed by ATA is too narrow in that it authorizes only prospective noise abatement action. The Department believes that effective control of aircraft noise and sonic boom requires as a minimum (1) the authority to apply noise standards, rules, and regulations to the issuance of type certificates, both prospectively and retroactively to the date of the application therefor, and (2) the authority to prescribe standards, rules, and regulations affecting the operation of aircraft as may be necessary.

While quite obviously any governmental decision to require the retrofitting of existing aircraft to reduce noise levels would have to be very carefully weighed from the standpoint of the benefits to be gained versus the costs necessarily imposed, the authority to do so ought to be available should technology and circumstances indicate that such retrofitting was necessary in the public interest.