

safety certification as the heading of the title, so therefore you throw it open to the courts at the outset to possibly find a new ground for noise litigation, namely, that certification for noise has some kind of safety implication, which I don't think was intended by the drafters of the bill.

An even more fundamental ambiguity exists because the bill refers to "rules and regulations." Rules and regulations can be promulgated by the Administrator now under title III as he testified before this committee last year, so that you don't need to complicate or confuse this issue by putting another reference to rules and regulations in the present bill.

Our substitute bill would avoid this by limiting the authority to type certification only. When a given aircraft type has been given a certificate as meeting the prescribed sonic boom or noise standard, it should not thereafter normally be necessary to have to meet an additional flight rule imposing a more stringent standard than the certification standard. But, in the event that did become necessary, title III has adequate provisions to enable it.

Now, let's look at some of the specific provisions. First of all, the scope of the certification authority. The bill would authorize certification authority over airmen, airports, aircraft, air carriers, and air agencies, without limit.

As we have stated, it is not clear, first of all, how you would apply it to airports. It certainly isn't clear why you should apply it to airmen, air carriers, and air agencies. If any authority were required to exercise direct noise regulation of airmen, pilots, and air carriers as air carriers, it could be done very simply under title III of the act. It is beyond the requirements of the objective of noise abatement to put a condition in the certificate of an airman under which he would violate his certificate if he merely exceeded, on a given landing or takeoff, some prescribed flight rule for noise.

Secondly, the bill empowers the Secretary to do these things but it doesn't require him to do so. Even where he finds that a certification standard is necessary in the interest of noise abatement, the bill does not require that he adopt the noise certification standard.

We think that the Administrator should be required to adopt a noise certification standard if it is necessary for noise abatement. This would operate also, perhaps, to enhance Federal preemption, so as to prevent any conflicting local regulations of the kind that you have, for instance, with the Port of New York Authority's well-known 112-PNdB regulation.

The cost of complying with that local regulation, for instance, has been estimated, in the case of one airline alone at Kennedy International Airport, at over \$4 million a year.

Another airline estimates that its cost of complying with the Kennedy 112-PNdB regulation amounts to 5 percent of its annual gross operating revenue for each affected aircraft at that airport.

Until now, the New York port regulation has been upheld by the courts largely because of omission by the Federal Government to exercise Federal authority.

Finally, although H.R. 3400 would, according to the 1966 testimony of FAA, be only prospective, applied to future aircraft designs, as we