AIRCRAFT NOISE

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

SECOND SESSION

SEPTEMBER 9, 1976

Printed for the use of the
Committee on Public Works and Transportation

U.S. GOVERNMENT PRINTING OFFICE
77-918 WASHINGTON : 1976

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CONTENTS

TESTIMONY

MATERIAL RECEIVED FOR THE RECORD

AIRCRAFT NOISE

THURSDAY, SEPTEMBER 9, 1976

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AVIATION OF THE
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C.

The subcommittee met at 10:16 a.m., in room 2253, Rayburn House Office Building, Hon. Glenn M. Anderson (chairman of the subcommittee) presiding.

Mr. ANDERSON. The meeting of the Subcommittee on Aviation will come to order.

We are very honored and privileged today to have with us one of our distinguished colleagues, a member of this subcommittee, Congressman Norman Y. Mineta.

TESTIMONY OF HON. NORMAN Y. MINETA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MINETA. Mr. Chairman, this subcommittee has already held 4 months of hearings on the problem of aircraft noise. We are now at the point of considering specific proposals for dealing with the problem. I appreciate your efforts which made possible our thorough review of the problem, but I believe we now have an obligation to move ahead promptly with specific and effective reductions in aircraft noise.

The Congress has laid a good foundation of public law from which to build a solution to this problem. In 1968, Congress amended the Federal Aviation Administration to prescribe and amend standards, rules, and regulations "in order to afford present and future relief and protection to the public from unnecessary aircraft noise * * *." The FAA responded to this mandate by promulgating, in 1969, FAR 36, which set forth noise emission standards for subsonic transport aircraft and jet aircraft of new design. The significantly quieter performance of the new wide-body aircraft is the result of these regulations. In the preamble to FAR 36, the aviation industry was put on notice that the FAA planned to regulate the noise levels of the existing jet fleet, as part of its congressional mandate to provide present, as well as future, relief.

In 1973, the FAA amended FAR 36 to require newly produced aircraft of older designs, beginning no later than December 31, 1974, to comply with FAR 36 noise emission standards. But still no rule had been promulgated requiring the "retrofit" of the existing fleet to bring it into compliance with FAR 36. FAA's attempts to promulgate such regulations have been constant since its announced intentions to do so in 1969. It published an advance notice of proposed rulemaking on November 4, 1970, another ANPRM on January 30, 1973. An NPRM followed on March 22, 1974, mandating 100-percent fleet

compliance with FAR 36 over a 4-year period. A draft environmental impact statement on that NPRM was published in December 1974, and was based in part on the October 1974 DOT "23-Airport Study." In July 1975, the FAA, in testimony before the House Subcommittee on Aeronautics and Space Technology, endorsed the retrofitting of the current commercial fleet to meet FAR 36 standards as "the cornerstone of our noise control program." In December 1975, and again in February 1976, the FAA testified before the House Aviation Subcommittee and again endorsed retrofitting the existing fleet. The FAA produced in January 1976, two additional studies setting forth the case for retrofit: "Aircraft Noise Reduction Approaches to Mitigation" and "International Implications of Retrofit." If we fail to recognize the need for source noise reduction, it will certainly not be for lack of supporting data and studies.

In its 1972 Noise Control Act Congress attempted to put some urgency into Federal noise abatement actions. In passing that act the Congress declared it to be the policy of the United States "to promote an environment for all Americans free from noise that jeopardizes their health or welfare." The Congress further authorized and directed Federal agencies to carry out the programs within their control in such a manner as to further that declared policy of the United States "to the fullest extent consistent with their authority under Federal laws administered by them." Retrofit has been within the section 611 authority of the FAA since 1968, and yet a retrofit rule has never been promulgated.

It is now 7 years after the FAA was given the authority to issue such a rule and 4 years after it was directed to do so. This failure to carry out the legislative mandate has not gone unnoticed: this past July the attorney general of the State of Illinois served notice that he would sue the FAA for violations of the Noise Control Act of 1972 and of section 611 of the Federal Aviation Act, I understand that suit will now actually be filed in a week or two, that Illinois may be joined in the suit by several other States, and that other Federal defendants in addition to the FAA may be named. In addition to the number of alleged procedural violations, the suit alleges that the FAA has failed to carry out its "nondiscretionary duty * * * to provide by regulation present relief and protection to the public health and welfare from aircraft noise and to provide for abatement of existing noise levels." I mention this suit merely as an indicator of the legal problems that have been created by the continued delay in promulgating a fleet noise rule. The only conditions put on the FAA's obligation to reduce aircraft noise for "present and future relief" are the section 611(d) condition, and the FAA testified in July 1974, to the Subcommittee on Aeronautics and Space Technology, and later again to this subcommittee, that its proposed fleet noise rule of March 1974, meets those conditions.

The Department of Transportation holds the view that while the FAA has the authority to promulgate the rule, the FAA does not have the authority to propose funding legislation to the Congress. That authority DOT has served for itself. Consequently, the FAA has for some time been proposing funding legislation to the DOT. The DOT has yet to propose legislation to the Congress.

In a September 1975, speech, Secretary Coleman indicated that a final decision on retrofit would be made by October 1975. In September

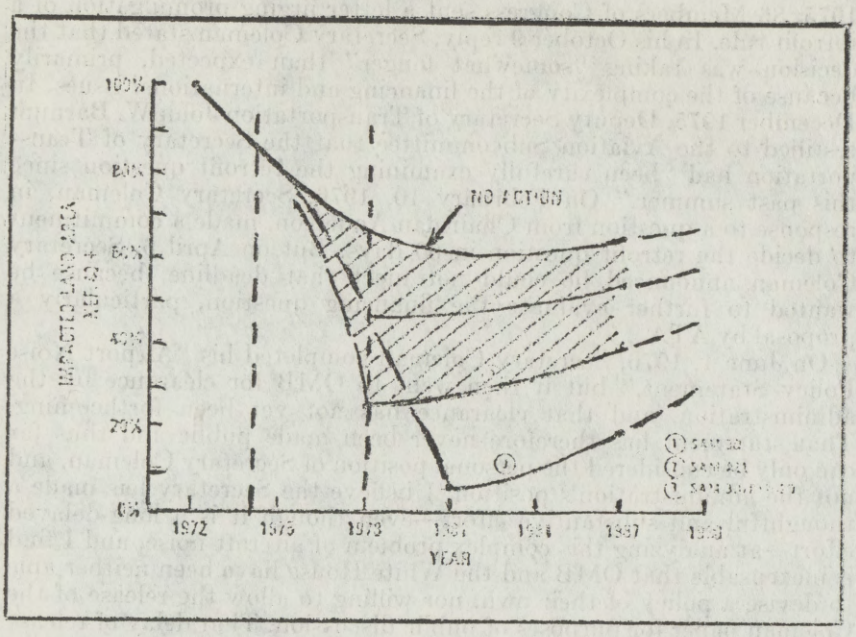
1975, 86 Members of Congress sent a letter urging promulgation of a retrofit rule. In his October 9 reply, Secretary Coleman stated that the decision was taking "somewhat longer" than expected, primarily because of the complexity of the financing and international issues. In December 1975, Deputy Secretary of Transportation John W. Barnum testified to the Aviation Subcommittee that the Secretary of Transportation had "been carefully examining the retrofit question since this past summer." On February 10, 1976, Secretary Coleman, in response to a question from Chairman Anderson, made a commitment to decide the retrofit question in 60 days. But on April 6, Secretary Coleman announced he could not meet that deadline, because he wanted to further evaluate the financing question, particularly a proposal by ATA.

On June 1, 1976, Secretary Coleman completed his "Airport Noise Policy Statement," but it then went to OMB for clearance by the administration, and that clearance has not yet been forthcoming. That statement has therefore never been made public and thus far can only be considered the personal position of Secretary Coleman, and not the administration's position. I believe the Secretary has made a thoughtful and substantive effort—even though it is a long-delayed effort—at analyzing this complex problem of aircraft noise, and I find it inexcusable that OMB and the White House have been neither able to devise a policy of their own, nor willing to allow the release of the Coleman paper for purposes of public discussion. That delay of release has now been over 3 months and has already caused these hearings to be rescheduled once, and now Secretary Coleman has canceled for a second time. It is a rather awkward task to discuss the major noise reduction proposals when one of them is kept under wraps.

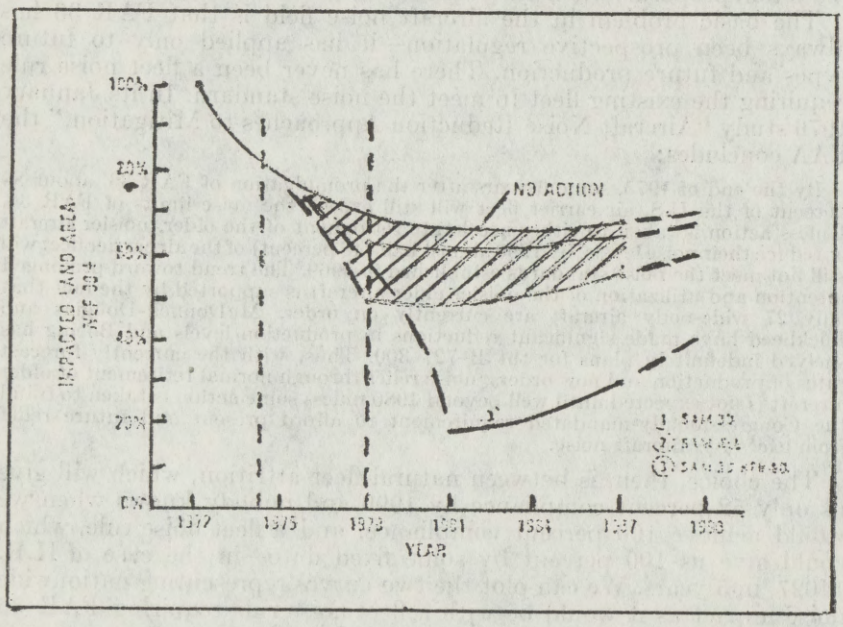
The basic problem in the aircraft noise field is that FAR 36 has always been prospective regulation—it has applied only to future types and future production. There has never been a fleet noise rule requiring the existing fleet to meet the noise standard. In its January 1976 study "Aircraft Noise Reduction Approaches to Mitigation," the FAA concludes:

> By the end of 1975, some 6 years after the promulgation of FAR 36, about 80 percent of the U.S. air carrier fleet will still exceed the noise limits of FAR 36. Unless action is taken to either accelerate retirement of the older, noisier aircraft or reduce their noise levels, by 1990 almost half (48 percent) of the air carrier fleet will still not meet the noise standards established in 1969. The trend toward prolonged retention and utilization of the noisier older aircraft is supported by the fact that only 27 wide-body aircraft are currently on order. McDonnell-Douglas and Lockheed have made significant reductions in production levels and Boeing has shelved indefinitely plans for tht B–727–300. Thus, with the currently forecast rates of production and new orders, noise relief through normal retirement of older aircraft is not expected until well beyond 1980 unless some action is taken to fulfill the Congressionally-mandated requirement to afford present and future relief from excessive aircraft noise.

The choice, then, is between natural fleet attrition, which will give us only 52 percent compliance by 1990 and nobody knows when we would achieve 100 percent compliance, and a fleet noise rule, which could give us 100 percent by some fixed date—in the case of H.R. 14027, in 5 years. We can plot the two curves representing nationwide noise impact as it would be with a fleet noise rule requiring FAR 36 compliance and as it would be without such a rule.



Comparative effectiveness with time of three alternative aircraft modification programs in reducing impacted land area within NEF 40+ noise exposure contours at major U.S. airports.



Comparative effectiveness with time of three alternative aircraft modification programs in reducing impacted land area within NEF 30+ noise exposure contours at major U.S. airports.

These particular charts[1] were part of the FAA's "23 Airport Study," released October 1974, and assumed a 4-year retrofit rule from 1974 to 1978. In all other respects they may be assumed to be accurate in our present situation. The shaded areas represent the noise impact in land areas outside airport boundaries which would be alleviated if retrofit were required.

That shaded area represents a great burden on commerical aviation in this country. Chairman Anderson has characterized airport noise as "the most serious problem facing aviation today." Paul Ignatius, president of the Air Transport Association, characterized noise as a "major constraint" on commercial aviation. The operators of our Nation's airports have testified that because of noise, "airport development is being stopped, airline operations are being constrained, and the communities that own and operate public airports are being judged legally liable for millions of dollars in damages." Dr. McLucas has testified that "aircraft noise is a major problem affecting the present viability and challenging the future of the air transportation system."

That shaded area represents the costs of not retrofitting, and those costs are borne by our aviation system in several ways:

The court system has held that the local airport operator is legally liable for the diminution of neighboring property values due to aircraft noise impact, for injury to personal health and well-being due to aircraft noise, nor nuisance, annoyance, strain, worry, anger, fear, frustration, or irritability short of any demonstrable injury, and for continuing nuisance—that is a neighbor can repeatedly sue and collect damages. The costs of these noise damage awards, and the often considerable costs of litigation, fall on the airport sponsor, which is in most cases a local municipality, either a city or regional authority. This operating municipality in almost every case has separated its own general finances from airport finances, so that all airport costs must be covered by airport revenues. The principal airport revenue source is the landing fees charged the airlines. These landing fees are in turn part of the operating costs which the Civil Aeronautics Board incorporates into the rate structure of the airlines. The passenger ultimately pays those costs in his ticket price, and to the extent that an airline's market is price elastic, it loses some portion of its potential revenue passengers.

One of the actions local airports are taking in an effort to protect themselves from the rising wave of suits is the purchase of those land areas which are generating suits. In the last 5 years, Los Angeles International has spent $136 million on land-purchasing, and Logan International has spent $1.118 million. Total airport expenditures on land purchasing since 1970 with assistance from the trust fund has been $412.5 million. These land-purchasing costs are either covered by the airport, like the noise litigation costs above, and paid ultimately by the user, or they are paid out of that airport's grant assistance from the Airport and Airways Trust Fund. At Los Angeles International, for example, $31.5 million of the $136 million has been trust fund money. It is true that the Congress has only recently authorized

[1] The charts are reprinted from an article in "Sound and Vibration," February 1975, about the 23 Airport Study.

the use of trust fund moneys for land purchasing for environmental purposes. But the fact is that there has been trust fund authority for land purchasing for safety purposes since the inception of the trust fund, and the FAA's definition of safety purposes has been sufficiently broad to include many noise-impact land purchasing needs. Trust funds have been heavily relied on for that $412.5 million in land purchases. And approximately 92 percent of trust fund revenues come from air carrier user taxes. Once again it is the passenger's ticket which pays the cost of noise impact.

For the airport environs the difference between retrofitting and nonretrofitting would be considerable. For example, at JFK International the NEF 30-plus impact area would be reduced from 48 square miles to 27 square miles, and the number of residents living within that contour would decrease from the present 485,000 people to 252,000 people. Comparable figures for Logan International are a reduction from 11.19 square miles to 6 square miles and from 91,064 people to 35,700. Dr. McLucas testified that at LAX, there would be 85 percent fewer acres in the heavily impacted zone and 80 percent fewer residents than at present. Based on projections from the "23 Airport Study," FAA/DOT has predicted nationally NEF 30-plus land areas outside airport boundaries would shrink 74 percent from their 1972 areas, and that NEF 40-plus areas would shrink 82 percent, if retrofit and a thrust cutback on takeoff were required.

Of particular interest is a comparison of the action we have been so far unable to take—retrofit—with the action we are, in fact, taking in the absence of any policy choice—land purchasing. The present land value of NEF 30-plus properties around the Minneapolis-St. Paul airport is $1.4 billion. Around Los Angeles International that figure is $1.52 billion. Around JFK International the figure is $7 billion. As for nationwide figures, the FAA recently reported: "An order of magnitude estimate of the cost of acquiring all of the land which would be in the NEF 30-plus zone in 1980 is between $95 and $285 billion—1975 dollars, while the cost of the NEF 40-plus zone is between $7.5 and $18.7 billion—1975 dollars."

Clearly land purchasing alone is an absurdly costly way in which to deal with noise impact, yet in the absence of any Federal policy of existing fleet noise source reduction, that is the policy that is being pursued. Both Federal and local money is being spent, and in both cases it ultimately comes mostly out of the pockets of the airline passenger, and is therefore a drag on the airlines' market potential.

In the long run, land purchasing will only be reasonable in conjunction with retrofit. Only after heavily impacted areas have been dramatically reduced in size will it make sense to try to buy them. It is interesting to note that the total cost of retrofitting and then purchasing all remaining NEF 40-plus lands is about one-half the cost of purchasing NEF 40-plus lands without retrofit. The absence of leadership on a retrofit decision could ultimately be very costly.

It is difficult to fully estimate the costs of noise to date. Secretary Coleman has estimated that in the last 5 years airport operators have paid out over $25 million in noise-damage awards and have spent over $3 million in related legal costs. He also estimates that they have spent $200 million in the same period to purchase noise-impacted land. It is even more difficult to fully predict the amount that could be saved by adopting a fleet noise rule and avoiding the noise-impact

costs associated with the shaded areas of the graphs I mentioned earlier. In its studies, FAA determined that the diminution of property values alone in the NEF 30-plus contour was nearly 2½ times the cost of retrofit, and that by combining retrofit with a thrust cutback on take-off the cost-benefit ratio would more than double. Generally, costs-to-date can be seen as just the tip of the iceberg, because these costs were actually incurred in a period of declining total noise impact, and we are now in a temporary low spot in the total aircraft noise impact level, as shown in the graphs. This is the result partially of the introduction of the 20 percent of the fleet which now meets FAR 36, but to a greater extent it is the result of the dramatic reduction in aircraft operations as a result of the recession. Increasing traffic will more than offset the benefits of further introduction of new FAR 36 aircraft, so that soon total noise impact will be on the rise, as Deputy Secretary Barnum testified. Noise impact costs can therefore be expected to increase sharply.

There are cost burdens other than litigation and land-purchasing on our aviation system:

Curfews and equipment restrictions imposed by airports in an attempt to defend themselves from noise impact liabilities add to the inefficiency of equipment utilization in our system, and these inefficiencies cause increased operating costs, which are passed on to the consumer. Preferential runway systems for noise-impact mitigation can also add an inefficiency cost factor to the system, for example, adding to holding pattern or taxiing time. And with the jet noise problem has come an increased resistance to new airports and to existing airport expansions, and this often creates inefficiencies connected with using inadequate facilities, for example, planes waiting for gate space, or planes standing in line waiting for takeoff.

So the question is not whether we should assume the cost burden of noise impact—we are now paying that cost burden and those costs will continue to rise. We are presently taxing the passenger part of the 8 percent contribution to the trust fund and some part of his basic ticket rate structure to pay the costs of noise impact.

This view of the costs of noise impact and who pays for it should make us all aware that noise is not a problem for only a few local noise-impacted areas. Everybody who flies has an aircraft noise problem, because we are all paying the costs of noise.

The point is that noise reduction at the source—

Would not just benefit the 600,000 Americans who currently live in areas which are severely impacted (NEF 40 plus).

Would not just benefit the 6 million Americans who currently live on 900,000 acres of land exposed to unacceptable levels of aircraft noise impact (NEF 30 plus).

And would not just benefit the 16 million Americans which DOT has identified as living in the noise corridors of our Nations' airports. A fleet noise rule is cost-beneficial to the aviation industry, which means it would benefit the consumers of air travel and that it would benefit all aspects of our national life which are enhanced by a viable aviation industry.

I might also point out that although nationally we hear mostly about the noise problems of a relatively small number of airports—Los Angeles, Newark, and Boston being the most often mentioned—that does not mean this is not a nationwide problem. Some folks are

noisy about being noisy, and some folks are real quiet about it. But the threat posed by noise impact is there in any case.

To give you a better idea of where the problems are, the following is a list of those airports which have more than 100,000 residents within their NEF 30 contours, in order of the number of such residents:

	1972 residents (thousands)		*1972 residents (thousands)*
(1) La Guardia	1,057.0	(8) Denver	180.3
(2) O'Hare	771.7	(9) Cleveland	128.7
(3) Kennedy	507.3	(10) San Francisco	124.1
(4) Newark	431.9	(11) Seattle	123.2
(5) Boston	431.3	(12) Buffalo	113.8
(6) Los Angeles	293.4	(13) St. Louis	100.0
(7) Miami	260.0		

In addition, ATA lists a number of other airports as being noise sensitive:

Atlanta, Minneapolis-St. Paul, Phoenix, San Diego, Washington National, Detroit, Honolulu, Memphis, Las Vegas, Tampa, Baltimore, Fort Lauderdale, San Juan, Salt Lake City, Oakland, Louisville, San Jose, Albuquerque, Ontario, and Palm Springs.

No matter how small or rural your destination, the odds are overwhelming that if you travel by air, your journey will include at least one of these airports.

I therefore believe that a fleet noise rule is essential to the well-being of our Nation's system of commercial aviation. I do not believe or claim that a fleet noise rule will entirely solve the jet noise problem, but I do believe that such a rule is an essential part of the solution. There are many other issues within this noise problem—clarification of preemption, operational procedures, curfews and scheduling, compatible use planning, land purchasing, sound insulation, et cetera—but the burdens presented by all these other issues are all reduced by reducing the actual noise emissions. Whatever this subcommittee chooses to do to deal with these other issues will be compatible with and will be enhanced by the promulgation of a fleet noise rule.

The first choice we have to make is between natural attrition of the existing non-FAR 36 fleet and some form of fleet noise rule. In his "Airport Noise Policy Statement" Secretary Coleman endorses, as the FAA has, the central concept behind H.R. 14027: that natural attrition of the existing non-FAR 36 fleet will not provide sufficient noise reduction and "that the timetable must be compressed in order to realize the benefit of noise reduction sooner and to prevent an increase in noise exposure and the introduction of the problem to other airports." I assume from the ATA's proposal to accelerate aircraft compliance with FAR 36 that the ATA also endorses this concept.

The second choice we have to make is which aircraft should be affected by a fleet noise rule. The ATA believes it should only be the JT3D-powered aircraft (the 707 and the DC–8). They point out that on a single-event basis these are the noisiest aircraft and the aircraft which show the greatest noise reductions when retrofitted. Secretary Coleman, however, concludes that JT8D's should be included in a fleet noise rule—

> Because of their larger numbers, more frequent operation, and more widespread use, the cumulative effect of reducing the noise of these JT8D-engined aircraft is greater than that for four-engine aircraft alone.

This can also be observed in the graphs earlier in my testimony, where the 3D-only curves make up less than half of each of the shaded areas. Non-FAR 36 JT8D's make up 50 percent of the U.S. fleet, while JT3D's make up only 24 percent of the U.S. fleet. Yet non-FAR 36 JT8D's account for 82 percent of operations at U.S. airports, while JT3D's account for only 10 percent of operations.

Furthermore, there is the question of equitable distribution of noise relief throughout our national system of airports, and not just to the relatively few airports which have significant JT3D operations.

The JT8D-engined aircraft operate into all of the U.S. air carrier airports that have jet operations, while only 25 percent of these airports have at least one four-engine scheduled operation per day, and only 15 percent have more than four daily. Thus, the two- and three-engine older airplanes present a far more pervasive noise problem, and represent the major portion of the total daily noise "dose" inflicted by air carrier aircraft.

And there is also the question of cost/benefit. Nationally the benefits of including both the JT8D's and the JT3D's are more than twice as great as the benefits of including only the JT3D's. Yet the JT8D's cost considerably less to retrofit than do the JT3D's, so the cost/benefit for retrofitting the JT8D's is considerably better than for retrofitting the JT3D's. FAA/DOT have put the unit cost of retrofitting a 727 at roughly one-fifth the unit cost of retrofitting a 707 or DC–8, and the cost of retrofitting all JT8D's at slightly more than half the cost of retrofitting all JT3D's. It would neither be cost/beneficial nor equitable to impose a fleet noise rule on only JT3D's: JT8D's must be included.

H.R. 14027 therefore begins by requiring (in section 3) the FAA to promulgate essentially those regulations it had proposed in its NPRM of March 1974, requiring the commercial jet fleet to meet the existing FAR 36 noise emission standards. The only significant change is that the time period has been extended from 4 to 5 years. Nothing in this section releases the FAA from its obligations under section 611 of the Federal Aviation Act. These obligations prevent the promulgation of any regulation which is inconsistent with the highest degree of safety, economically unreasonable, technologically impractical, or inappropriate to the aircraft type. The 75,000 pound cutoff is sufficient to include all commercial transport aircraft (the smallest are the BAC–111 at 80,000 to 90,000 pounds and the DC–9 at 90,000 to 100,000 pounds). The regulation does not affect general aviation jets or propeller-driven craft of any kind. The standard airworthiness clause excludes such special categories as experimental certification, where a manufacturer might be flight-testing a new engine, for example. The regulation effects equally all jet-transport aircraft over 75,000 pounds, no matter who the operator may be—U.S. carrier, foreign carrier, supplemental, or an individual—by prohibiting use of such aircraft which do not meet FAR 36 at U.S. airports after 5 years. The interim partial compliance language is less restrictive than that included in the FAA's NPRM, and does not give the FAA any new authority or release it from its section 611 obligations.

The time period required to bring the fleet into compliance with FAR 36 has been the topic of considerable debate. The FAA in 1974 felt that a 4-year period was sufficient, and, therefore, used that number in their NPRM of 1974. In February of this year Dr. McLucas

testified to this subcommittee that he still believed that sufficient nacelle and engine kits could be made available to complete a retrofit program within 4 years from go-ahead. At the other extreme, one aircraft manufacturer which is strenuously opposed to retrofit has reported to Secretary Coleman that it could not produce kits for its aircraft in less than 9 years. I cannot believe that if it were less hostile to retrofit its estimate would not be lower. My own informal conversations with Boeing and with Pratt and Whitney indicate that they could produce sufficient kits in the 5-year period.

The next major question we have to face is the question of financing: shall the Federal Government help the airlines meet the costs of complying with a fleet noise rule? The FAA/DOT position is that there should be no rule until there is a financing mechanism in place, which of course requires legislation. But DOT has yet to propose any financing legislation. I am not a lawyer, so I cannot comment on how successful that argument might be in court in explaining why the FAA's section 611 obligations have not been met.

The FAA has the authority, and has had the authority since 1968, to issue a fleet noise rule, without any action by DOT and without any action by the Congress. The past few years have demonstrated that the subject of financing mechanisms is so complex that it would be possible to keep inventing new variations of mechanisms for further discussion until well after the turn of the century. I suspect that if the promulgation of the rule were to come first, the financing discussion might quickly become more conclusive and our deliberations would suddenly become much easier. In any case, promulgation of a rule could be followed by financing legislation.

If a rule were to be promulgated and no financing legislation were to follow, there would still be a "de facto" financing mechanism: the costs of compliance would be incorporated into the CAB rate structure and passed along to the consumer. I consider this an undesirable option for two reasons:

(1) It is doubtful whether the airlines have the credit necessary to meet the costs of retrofit before passing them on to consumers; and

(2) I see no reason why at a time when the consumer is paying a passenger tax, part of which immediately becomes surplus, that the consumer should pay a price over and above that surplus for noise reduction. There is no need for that additional cost burden, and the additional price disencentive would only hurt the airlines unnecessarily.

Unattractive as this alternative may be, we may find it adopted for us if we fail to act on noise-reduction. Los Angeles is now considering a fleet noise rule requiring 100 percent compliance in 5 years. In 1973, Boston adopted a fleet noise rule requiring that 50 percent of each carrier or operator's aircraft must meet FAR 36 by December 31, 1976, and that 100 percent must be in compliance by December 31, 1979. The Boston rule carries a $500 fine for each aircraft operation at Logan which violates the rule. If these local authorities are successful in implementing local fleet noise rules, other noise-impacted jurisdictions will be under strong local pressures to offer similar protection for their airports and for their citizens. Noise reduction at the source is most properly a Federal role, as Congress intended it to be, and Federal action can include financing as local action cannot. But the

Federal Government will increasingly find noise reduction at the source to be hard ground to defend if left unoccupied. There would be no local interest in this area if the Federal Government were to live up to its section 611 responsibilities.

I believe that Federal financing should be offered, and that three broad principles should guide us in constructing a financing mechanism

First, financing should only be offered in those areas where the fleet noise rule has mandated changes in existing aircraft, and should only be for an amount equal to retrofitting those aircraft. H.R. 14027 meets these requirements, but the ATA proposal does not. The ATA would put a fleet noise rule only on JT3D aircraft (and only after 10 years), but under its proposed financing mechanism funds would be available to airlines on an optional basis to replace KT8D aircraft. Also, the ATA proposal would cost significantly more than a straight retrofit of those aircraft affected by its fleet noise rule: the price tag on the ATA proposal is $3.6 billion. In both respects I consider their proposal an execssive burden on funds taken from the flying public.

Second, the use of the trust fund surplus and surplus revenues is a sound investment in reducing future noise impact costs to the trust fund, and using these funds would mean that we could make this investment in noise reduction without adding any new domestic price burdens to airline tickets. Use of the trust fund would assure that the user was paying the costs of the noise reduction program, since 81 percent of trust fund revenues come from the passenger ticket tax, 6 percent comes from the international ticket tax, 5½ percent comes from the freight waybill tax, and 1½ percent comes from other air carrier taxes, for a total of 94 percent of all trust fund revenues.[1] As of October 1, 1976, the trust fund surplus is $1.334 billion, more than sufficient to meet the costs of H.R. 14027, and in the next 4 years the FAA has projected that surplus revenue will swell the surplus by an additional $777 million. The following chart shows the FAA's anticipated trust fund revenues and expenses, based on the Airport and Airway Development Act amendments which just became law:

[In billions of dollars]

	Fiscal year—			
	1977	1978	1979	1980
Revenue (including interest)	1.226	1.323	1.414	1.494
Funding (authorization levels)	1.110	1.130	1.190	1.250
Annual surplus revenue	.116	.193	.224	.244
Total surplus at end of year (uncommitted balance)	1.450	1.643	1.867	2.111

Once we have achieved 100 percent fleet compliance and have thereby met our obligations to deal with what is the largest problem confronting airport development, then we would be in a good position to advocate a reduction in the passenger ticket tax sufficient to balance revenues with funding levels, and I would support such a reduction.

And third, it is important that the financing mechanism not act as a disincentive to the replacement of older aircraft by new aircraft, which offer many benefits both to the airlines and to society in general. These benefits include superior productivity, marketability, fuel

[1] 1975 figures.

efficiency, pollution reduction, and noise reduction. However, we should also recognize that the primary function of a financing program should be noise reduction, and that aid to airlines to purchase new airlines should be a secondary objective. As long as a replacement option neither adds to the Federal costs over the costs of retrofit nor delays the time when 100 percent compliance would be achieved, then I believe a replacement option should be offered.

Section 4 contains the mechanism by which H.R. 14027 would maximize the flexibility offered to airline managements in dealing with the retrofit/replacement option. Using this mechanism of an eligibility list at the beginning of the program, an aircraft operator would become eligible for grant assistance by virtue of being the operator of a noncomplying aircraft on the date of enactment. The operator would actually get the grant by virtue of incurring either retrofit or replacement costs. Other than final compliance with section 3, the operator need not actually remove that craft from service in order to get grant assistance on a new craft purchase. In other words, he would not have to "cash in" a noncomplying aircraft in order to get funds for the down payment on a new aircraft; his claim to those funds would be "reserved" by his place on the list. The operator might choose to continue to operate that craft until final delivery of the replacement. Or conversely, an operator with excess capacity might choose to sell his noncomplying craft early in the program, but could wait until later in the program to make the commitment on a replacement order. In this way the program would be more adjustable to the individual needs of the operator.

The objective here is to not unnecessarily require an operator to make a retrofit/replacement decision 1 year into the program when—if the operator had waited until 3 years into the program—the operator would perhaps be more likely to make the replacement choice. The operator also has the option to make an order with grant assistance on a future aircraft, and would be eligible for grant assistance on the down payment and on those progress payments made within the 5-year time period of the program, and could take delivery after the end of the program.

This flexibility is important not only for the socially desirable purpose of encouraging fleet modernization, but such encouragement should have a beneficial effect on one of our most threatened and vital industries: aircraft manufacturing. Not only would airlines be more likely to purchase new craft under this more flexible structure, they would be more likely to make orders on future aircraft which are now only on the drawing boards, such as Boeing's 7X7 and McDonnell-Douglas' DC–X–200. These aircraft will never see production unless advance orders are placed, and today that is just not happening.

In order to effectively deal with the noise-reduction issue, the primary determinations we need to make are—

That natural attrition is inadequate;

That a fleet noise rule should cover all jet transport aircraft;

That the fleet noise rule should be for compliance in as short a period as is consistent with the section 611 criteria; and

That financing should not cost more than the cost of retrofit, but that equivalent amounts should be available for a replacement option.

Once those determinations are made, there are aspects of the problem which merit further deliberation. One is the question of foreign aircraft and how a fleet noise rule and financing program should treat them. In H.R. 14027 as drafted, the eligibility of foreign operators is limited in two important respects. First, they would not be eligible for the replacement option. And secondly, only that portion of their fleet necessary to sustain their existing service to U.S. airports would be eligible. This is the approach to foreign aircraft originally proposed by the FAA in its NPRM and then further analysed and recommended in the FAA study of January 1976, "International Implications of Retrofit." The findings of that study were that foreign aircraft contribute significantly to noise impact and costs at many of our most heavily impacted airports, that this approach is far more cost-effective than including all the noncomplying aircraft of every foreign operator who has any operations to the United States, and that foreign passengers and foreign carriers have paid and continue to pay a substantial portion of trust fund revenues through the international departure tax. Through the end of 1975 it is estimated foreign citizens have paid $86.7 million into the trust fund and foreign carriers have remitted $106.6 million into the trust fund. If after analysis of this legislation it is determined that foreign operators would draw down the trust fund surplus and surplus revenues by more than they have and will continue to contribute, then I would add a revenue title to this legislation which would temporarily increase the international departure tax to the extent necessary to make good the difference. It should also be noted that since roughly 90 percent of the worldwide commercial jet fleet is of U.S. manufacture, most of the money granted to foreign operators would be spent in the United States.

Another problem requiring further attention will be section 7 of H.R. 14027, the authorizing section. Obviously we are now too late in the budget cycle to make an authorization in fiscal year 1977, so some adjustment would have to be made there.

But these remaining problems are really matters of implementation once we are willing to make that commitment to reduce aircraft noise. There is every indication that a serious effort by this subcommittee would be favorably acted upon by the Congress. In the past year 107 Members have either signed letters to FAA or DOT calling for the promulgation of a fleet noise rule and for the creation of a financing mechanism, or have cosponsored H.R. 14027. And on the Senate side, Senator Mondale has introduced this bill as S. 3503.

So the obligation is there, the need is there, the support is there, and I think it is time to take action to reduce aircraft noise emissions.

Thank you.

Mr. ANDERSON. Thank you, Mr. Mineta, for a very thought-provoking and intelligent statement.

As I understand your bill, it authorizes $300 million a year for fiscal years 1977 through 1980, 4-year funding, with a mandated 5-year compliance timetable, for a total of $1.2 billion and with no change in the tax structure. Is this a 5-year bill which automatically terminates after the 5-year period?

Mr. MINETA. Yes; it is, Mr. Chairman.

Mr. ANDERSON. What happens at the end of 5 years?

Mr. MINETA. Well, at the end of the 5-year period, you would have

100 percent compliance and at that point it would terminate. That is the part of the mechanism where you have the eligibility list for all aircraft which would be on an eligibility list by operator and within that time period there ought to be a replacement, retrofit, or retirement.

Mr. ANDERSON. FAA would still be making payments on their retrofit replacement grants?

Mr. MINETA. They would still be, possibly.

Mr. ANDERSON. For 5 years?

Mr. MINETA. Yes; 5-year period.

Mr. ANDERSON. It leaves the ball for FAA to carry?

Mr. MINETA. That is correct.

Mr. ANDERSON. You do not anticipate any change in the tax structure then either during the 5-year period or after?

Mr. MINETA. Well, I think after the 5-year period, it may be possible to go ahead and reduce the present 8 percent tax.

Mr. ANDERSON. If you reduce the present tax from 8 to 6 percent, what does that extra 2 percent go into, the airline companies profit or——

Mr. MINETA. I would assume that that would just mean that the fare would come down, at that point.

Mr. ANDERSON. Why?

Mr. MINETA. Well, being a tax on the fare and not having the need for the additional 2 percent as in your example, and with the surplus that we are building as a result of the revenues into the trust fund, we would not really need that 2 percent.

Mr. ANDERSON. You do not think if you reduced the tax the airlines would automatically raise or apply to raise the price of that—there would not be any change in the passenger fare?

Mr. MINETA. If they were to raise the rate or the fare, they would have to, of course, apply to the CAB, but I think the other point that we found about the airline industry is that they are so price elastic, it seems to me, that 2 percent would be a benefit to them in terms of market potential.

Mr. ANDERSON. Will this bill, in your opinion, provide sufficient incentive for replacement of aircraft so that we can take advantage of new technology aircraft to solve the noise problem?

Mr. MINETA. I think that is one of the parts of the program that appeals to me, the fact that it does give the incentive.

Mr. ANDERSON. I thought the incentive was more for retrofit, rather than replacement.

Mr. MINETA. Well, I think in both instances you will find advantages and I think in many instances that would be the choice of management as to which direction to go.

There are a lot of advantages to replacement that are not included in this program, such as fuel efficiency, increased productivity, a number of factors, but I think that those are the kinds of choices that management would have to make in terms of their determining which cost/benefit is going to be to their advantage.

Mr. ANDERSON. In your comments, I get the feeling it would be easier to give the money to retrofit and you would have to prove certain things, and with replacement you do not have to do thus and so, as a result the emphasis seemed to be more toward retrofit rather than replacement.

Mr. MINETA. I think that is a fair statement, Mr. Chairman, but I think it is not a mutually exclusive kind of thing. I think that is where management would have the choice of either going retrofit or replacement. Retrofit is where I think the initial impetus for this program comes from, but it does not preclude airline managements from going to replacement if they feel that is a better way to go.

Mr. ANDERSON. Will your bill provide sufficient cash flow throughout the 5-year program so that retrofit and replacement will not be bottlenecked?

Mr. MINETA. Yes.

Mr. ANDERSON. You do not think there would be a great enough demand to squeeze that amount down.

Mr. MINETA. I do not believe so, Mr. Chairman.

Mr. ANDERSON. That was why some of us originally thought it may be good to take that percentage figure—I think you used 2 percent, which has been often talked about—and putting that into a specific fund which could only be utilized for this purpose rather than——

Mr. MINETA. We have a sufficient—first of all, we have a tremendous surplus in our trust fund, plus each year we have the surplus revenues that are coming into the trust fund. And the other thing is that I think that we have built into this legislation an even cash flow in terms of the use of the trust fund money without having that decision being forced toward the end of the 5-year program.

Mr. ANDERSON. My concern is with the appropriation procedures, even though replacement or retrofit would have been well received in this committee, you might find that when you got to trying to get that $300 million out of the Appropriation Committee, they might find something else that would be more important, or OMB might say we need that to balance our budget. And you would have a tough time getting that $300 million; whereas, if you earmark 2 percent into a fund, there would not be any way of their sidelining this program.

Mr. MINETA. Well, I think this is the kind of thing we have found also with the highway trust fund. Because this is a trust fund, it seems to me that we would have the obligation or authority, through contract authority, to do that, to go ahead and have the appropriation of those amounts through contract authority.

Mr. ANDERSON. I agree with much of what you say. One of the real problems that we have, as you know, is the responsibility of the local officials, and as a former mayor of a major city, knowing the local problems, as you do, what actions should the local officials be either encouraged or required to take?

In other words, How can we get areas such as Los Angeles or San Jose to prevent the building of homes and schools right up to the boundaries of an airport?

Mr. MINETA. Well, I think in most areas, because of this impact that it has had on neighboring areas you do have the pressures for the kind of land-use controls so that you do not have that incompatibility of residential growth around an airport.

Mr. ANDERSON. How is this? Where is this?

Mr. MINETA. For instance, in California, we have an airport land-use commission which requires, or which can determine what the land-use shall be around an airport.

In fact, every county in California is now required to have a general plan as it relates to land-use management.

Mr. ANDERSON. Do they implement it?

Mr. MINETA. Yes. In fact, I went through the experience of having the airport land-use commission in San Jose or Santa Clara County turn down some zoning that we had for a motel within the noise impacted footprint of the airport. So I think there is this mechanism and there is this possibility.

Mr. ANDERSON. In your situation in San Jose, are most of the landing and takeoff areas at your airport over the city or the bay?

Mr. MINETA. Over the city.

Mr. ANDERSON. So, you do not have other communities involved?

Mr. MINETA. Yes; we do. We have Mountain View and Santa Clara.

Mr. ANDERSON. Do you have good cooperation with them in their zoning and things?

Mr. MINETA. Yes. In fact, this has been probably one of the strongest points: the fact that the Airport Land-Use Commission decision relative to the general plan around the airport has just about been followed. And the other reason being it requires a six-seventh's vote of the cities that get impacted by an ALUC decision. So, in the case of San Jose, we would have to have six members of our city council to overturn an ALUC decision relative to the general plan around the airport.

Mr. ANDERSON. When Mr. Levitas and I were down in Atlanta, we found that the airport for Altanta was built out quite a ways from the city and surrounded by a bunch of smaller cities that have absolutely, apparently, no control and felt that no one was listening to them at all. And I know in the case of Los Angeles, we have almost all of the noise problem in adjacent cities or county areas, and Los Angeles tell us they cannot acquire the land there and have no eminent domain power, no zoning power, what can we do to either encourage or compel some type of local zoning around an airport?

Mr. MINETA. Well, because of the extraterritorial jurisdiction problems that you mentioned in both Englewood as well as the Atlanta situation, it seems to me that that is where a State law would probably be necessary.

Mr. ANDERSON. What kind of State law? It has been suggested, for example, that some type of a local regional airport district might be within the county, but it might even be more than a county, depending on what area was affected. I suppose, at least, a footprint would all be in one area and perhaps more, as they would have limited powers of eminent domain for airport use or for noise, the zoning and possibly some taxing ability in there. This has been suggested, but every time it is suggested local public officials say: You are infringing on the rights of the county and city, and I wonder how we would be able to get some type of law like this, where you would be able to establish for Los Angeles—I know a little bit more there—where they could utilize money on eminent domain to acquire land and pay for it and zone it, even though it would be outside of their city. They cannot do it now. If there is some type of a district forum I would like to have your comments on that problem.

Mr. MINETA. Well, it seems to me, first of all, that it would be outside the purview of Federal law and the question is whether or not we would be able to get States to take that kind of action.

If you have a regional authority made up of local elected officials it may be more palatable.

I think one of the problems in constituting regional authority is the fact that they are made up of nonelected, publicly appointed public citizens and when an appointed public citizen has a power beyond those of the locally elected official then I think that creates the rub.

Mr. ANDERSON. Are you suggesting that a district wherein the officials are elected or appointed?

Mr. MINETA. Or, are made up of either elected officials or appointed public officials, publicly elected officials or elected directly.

I would assume in most instances the most acceptable route is to have publicly elected officials who are appointed so that it does not become another layer of governmental planning agency.

Mr. ANDERSON. One other area I did not hear you mention is how your bill applies to foreign aircraft coming into this country and then our own aircraft that are going into foreign countries, such as Pan Am and TWA?

Mr. MINETA. In terms of foreign aircraft, there would be a 5-year period after which they would not be able to come in, if they could not comply with FAR 36.

Mr. ANDERSON. In other words, all foreign aircraft flying into the United States after 5 years would have to comply with FAR 36 requirements. Would they be entitled to any of this money?

Mr. MINETA. Yes. They would be if they were on that eligibility list that is in section 4, where the Secretary is giving 120 days to create an eligibility list.

Mr. ANDERSON. Would they be treated just the same as U.S. aircraft?

Mr. MINETA. Yes, they would be.

Mr. ANDERSON. Then I assume that our U.S. aircraft that are flying overseas would all be aircraft, then, that would be treated the same whether it be U.S. aircraft flying overseas, U.S. aircraft flying domestically, or foreign aircraft flying domestically?

Mr. MINETA. That would be correct, and in the case of a domestic airline selling an airplane to an overseas carrier, if it does not meet the FAR 36 requirements in 5 years, it would be ineligible to land here.

Mr. ANDERSON. Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

Norm, I was wondering if and when we meet the FAR 36 noise levels, will the public become attuned to those or will they, in your judgment, be back later for further relief? Do you think this would be an acceptable level?

Mr. MINETA. First of all, this bill really would not give relief to the person who is, let us say, sitting right at the end of the runway. To me, the important part of this bill is the reduction of that noise footprint on the area at the airport. I think that in terms of the bill passing, and at the end of 5 years with the persons being able to go out and say, "Where have they moved the airport to?" No; that would not be the situation, but what it does is to reduce the noise footprint down considerably.

If we were to go to, let us say, the NEF 40 areas, as I recall, it was 82 percent in terms of the noise reduction, the noise footprint that we would be reducing the impact by, so that I think it is significant when you think about land acquisition costs and when you think

about the suits that are being generated, this defends the local airport operator right now, that in the absence of this bill those costs would increase at an increasing rate.

Mr. TAYLOR. They would increase?

Mr. MINETA. Considerably.

Mr. TAYLOR. That's all, Mr. Chairman. Thank you.

Mr. ANDERSON. On that same line, let us go back to Los Angeles where I think the one footprint—I am not sure my figures are exact—where the one footprint is about 8 miles but if you retrofit you bring the impact down to about 5 miles. So, the people who live from 5 to 3 miles out are no longer impacted, but those within 5 miles are. What recourse, then, do the people within the 5-mile area have? In other words, will this reduce the people who will be suing, the 8 miles out down to 5 miles out?

Mr. MINETA. I would suppose that would be just reducing the range of the potential number of lawsuits, Mr. Chairman.

Mr. ANDERSON. But we would be doing nothing for those people because they would still be impacted within the 5 miles.

Mr. MINETA. Well, the thing is that in terms of the noise contours, they would still be impacted, but I think that impact would be less than what it would be under an uncontrolled situation as we have right now.

Mr. ANDERSON. You mean, even though there would be impact within the 5 miles, they would not be impacted with the same volume—the volume would not be quite as great or the screech, or whatever it would be?

Mr. MINETA. Sure. And I think, for instance, HUD, I think, right now uses—HUD right now uses NEF 30 for their FHA programs as the general rule where they will not insure any mortgages within an NEF 30 area. So that I think that by reducing the noise impact contours we would also be in a position to further that program.

Mr. ANDERSON. Getting back to the local responsibility again, as you know Los Angeles, at least at one point, was going to ban all non-FAR 36 aircraft over a 5-year period. Do you believe that local officials should have that power?

Mr. MINETA. Well, I do. I think, in the absence of any other kind of relief for them where they are the sole defendant, the airlines themselves, the frame manufacturer, the engine people are not defendants in these cases. I think in order for them to protect themselves, in the absence of some kind of Federal noise rules, they are going to have to go to curfews or other kinds of restrictive operational procedures. And I think this is the kind that is much more damaging to our total aviation system than adopting some kind of a fleet noise rule.

Mr. ANDERSON. If Los Angeles can take the recommendation of the FAR 36 aircraft and ban that, then are you saying that they can ban FAR 36 minus 10 DBA aircraft?

Mr. MINETA. I think there is a question of preemption at that point, where the Fed's would win out.

Mr. ANDERSON. In other words, your feeling is they could only have local control up as far as they complied with what the FAA said was a reasonable level.

Mr. MINETA. Sure.

Mr. ANDERSON. They could not go any tighter than that.

Mr. MINETA. Preemption, I think, is the sound legal doctrine, and I think with the adoption of a Federal law, the preemption problem would not be significant as it is right now with local operators taking things into their own hands.

Mr. ANDERSON. Any further questions?

Thank you very much, Norm, for a very fine presentation and obviously you have put a great deal of thought into this.

Mr. MINETA. Thank you very, very much, Mr. Chairman.

Mr. ANDERSON. Our next witness is Congressman John Wydler from New York. We are happy to have you before us today. The full text of your prepared remarks will be made a part of the record at this point.

[Statement referred to follows:]

STATEMENT OF HON. JOHN W. WYDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Chairman Anderson, thank you for permitting me to comment today on the vexing and long standing problem of aircraft noise. I wish to add my strong support to that of many of our colleagues who have joined Congressman Mineta in sponsoring H.R. 14027, to be cited as the Aircraft Noise Reduction and Airport Protection Act of 1976, which is before your Subcommittee today.

It is most unfortunate that there remains today what I have called a "cycle of indecision" on the part of the regulatory agencies in dealing with the problem of jet aircraft noise. The Environmental Protection Agency has estimated that some sixteen million people in our country are daily exposed to levels of aircraft noise which is incompatible with residential areas in hundreds of our nation's communities. This situation would not be so frustrating to the Congress and harmful to the continued provision and growth of air transportation services except for the availability for many years, of technical measures to significantly reduce aircraft noise. Despite the availability of such improvements, none have been implemented on a systemwide basis. On the contrary, there has been a curious disincentive to implement any improvements for reduced noise, regardless of their cost.

Today, we are considering legislation to require the retrofit of sound absorbant materials to jet transport aircraft. While Members of the Subcommittee are aware of the long awaited and many times postponed decision of the Department of Transportation to control noise through acoustic retrofit, I have come to the conclusion that H.R. 14027 is needed, indeed urgently needed.

It is important to note that Mr. Mineta and fellow sponsors of H.R. 14027 have devoted considerable thought to methods of financing acoustic retrofit. While I support the proposed use of trust funds, I am unhappy with the inherent delay occasioned by the requirement for new legislation and the difficulty of its passage. I would have preferred and intend to offer an amendment mandating establishment of a passenger ticket and freight waybill surcharge analogous to the current security surcharge. Not only is such a surcharge authorized under existing laws and regulations, but it would provide important identification of the purpose of the funds.

Another revision which I would offer is a mandate for implementation of operating regulations containing procedures optimized for the effectiveness of SAM acoustic treatment. Further, that such procedures be enforced through regulation(s) within one year of date of enactment.

Another revision I would offer is a provision mandating within one year inclusion of noise standards in all certificates issued under Title VI of the Federal Aviation Act. To insure that the best available noise control technology together with fuel conservation and safety be incorporated in U.S. air transport system design and operation, I would commend to the Subcommittee the superior competence and incentive for change traditionally demonstrated by NASA. I am convinced U.S. civil aviation would profit greatly from a massive infusion of NASA derived technology.

Since the submittal of the report of the President's Airport Commission, "The Airport and Its Neighbors," the importance of aircraft noise control has been officially recognized by our government. Two so-called CARD studies, for Civil Aviation Research and Development in 1968 and 1971, emphasized the importance of aircraft noise control through regulation, to which I would add, is the

only fair way. By this, I mean that all jet transport operators, domestic and foreign, commercial and general aviation would be required to comply. There is not yet in effect, a single regulation for the operation of aircraft or airports for noise control purposes.

With enactment of the Federal Aviation Act of 1958, Section 307(c) directed the FAA to act for the "protection of persons and property on the ground." In 1966, the U.S. Attorney General issued an opinion interpreting the intent and meaning of Section 307(c) as directing the FAA to take whatever actions were necessary to control noise from aircraft. Disregarding this interpretation of Section 307(c) of the Federal Aviation Act, FAA sought and received in 1968, virtually unanimous passage of the Aircraft Noise Abatement Act. While already empowered to act virtually as it saw fit, the FAA drafted the 1968 act which was specifically interpreted in both Houses to authorize acoustic retrofit just as were traditionally required, inservice changes for safety purposes.

Acoustic retrofit in the form of sound absorbant materials (SAM) was effectively demonstrated to the public and the Congress at Dulles Airport on May 7, 1973. The FAA Administrator promised on that date, promulgation of retrofit rulemaking by October 1, 1973. Like many of my colleagues, I have lost track of the multitude of promised decision dates during the last three years. The last one I recall was June 1, of this year. Without wishing to prejudge the Administration's decision on SAM retrofit/replacement, which all of us had hoped to learn today from Secretary Coleman. I want you to know I do not favor premature replacement of older noisy aircraft such as earlier model 747 and more recent production 707, DC–8 and JT8D engined aircraft as the ATA has proposed. While I agree with the need for advanced type aircraft programs to stimulate and maintain our country's vital aeronautics manufacturing teams, I cannot agree that aircraft noise which has for too long lacked controls, must await the replacement of older aircraft.

After much thought, I have concluded that the most effective manner by which I can assist the Subcommittee on Aviation to make its decision on H.R. 14027, is to commend to it the report of the Subcommittee on Aeronautics and Astronautics entitled "Aircraft Noise Abatement," dated December, 1974, Serial Z. During hearings in December, 1973, and July, 1974, the Subcommittee (predecessor to the Subcommittee on Aviation and Transportation R. & D.) on which I serve as Ranking Minority Member, recommended immediate implementation of SAM Retrofit as an effective way of abating aircraft noise. The report also emphasized the need for the systemwide implementation of operating procedures. There was considerable discussion of the relative merits of the takeoff noise abatement techniques identified as the NW/ALPA and ATA/FAA procedures. The Subcommittee recommended in 1974, that FAA immediately and urgently investigate the relative merits of each procedure and promulgate rulemaking based upon the results.

Nearly two years later, we find that the FAA has not ascertained the relative merits of the two procedures as recommended in the Congressional report. The FAA is not yet able according to its own report, to determine how aircraft should be flown on approach and departure for reduced noise.

In addition to supporting H.R. 14027, I would like to suggest for your consideration, the need for institutional changes in our Federal regulatory and R&D structure. In recent years, the FAA appears committed to maintenance of the status quo. The FAA has actively opposed adoption of many innovations regardless of their merit.

Having served on the Committee on Science and Technology and its predecessor since I joined the Congress nearly sixteen years ago, I am familiar with the availability of aeronautical technology for reduced noise, fuel conservation, all weather landing capability and safety measures such as collision and wake turbulence avoidance, etc. I am as concerned as the strongest proponent of aviation, for the future of aviation under the current institutional/regulatory structure.

In closing, I should like to offer the Subcommittee the benefit of the long experience of the Subcommittee on Aviation and Transportation R. & D. and its predecessors of more than ten years. Regardless of the diligence of Congress in authorizing and funding aircraft noise control measures, it is not likely under existing institutional responsibilities, that H.R. 14027 will result in the desired objectives.

I would note sadly that the Congress has failed to provide the proper institutions within the Executive Branch to properly account for all civil aeronautical requirements. New institutional arrangements are urgently needed if the U.S. is to remain the acknowledged leader of international civil aviation.

The traditional division among Congressional committees for civil aviation research, development and application should be ended through the joint action of our two Subcommittees. It is impossible to draw lines dividing research, development and regulation for whatever purpose. It would be better if the Congress was organized along modal rather than functional lines.

In closing I would note that Congressmen Goldwater and Milford serve on both the Aviation and Aviation and Transportation R. & D. Subcommittees. Can we not take advantage of this circumstance to enlarge the cooperation between the Subcommittees?

I urge a favorale report on H.R. 14027 with the modifications I have suggested. Thank you.

TESTIMONY OF HON. JOHN W. WYDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK, ACCOMPANIED BY LLOYD HINTON, TECHNICAL CONSULTANT, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES

Mr. WYDLER. As a matter of fact, I intended only to say that relating to the statement that I think is directly on point of the hearings relating to the bill that is being introduced. I have not introduced this bill myself yet, although I am a strong proponent of the retrofit program and for doing something about the jet noise problem and have been for the past 14 years that I have been in Congress. But the legislation, I think, really represents a frustration on the part of the author which I can fully understand and sympathize with—frustration on the lack of action on the part of the regulatory agencies in doing their duty as Congress has told them to do, and get on with the problem of using the technology, the ability that we have, that we have developed as a Nation and spent a great deal of money doing, putting it to use to give the people of the country long overdue relief that is available, and to that extent I think the legislation is meritorious as pointing out this problem and pointing out the unreasonable delay and the lack of action.

I am hopeful, as I sit here talking to you, that this legislation will not be necessary. Frankly, Mr. Chairman, I do not know if we could, you know, realistically expect this legislation is really going to, in any event, come into being, and if it did, when it would come into being. We have, maybe, 10 legislative days left in this legislative Congress. We are at a subcommittee level of this committee. I do not know who else might claim jurisdiction of this bill under our new procedure, so I do not know how many other committees that might have to go through this.

The next Congress, in my judgment, after the organizing, will not get around to considering this legislation for maybe 6 months, if it ever does, so this really holds out, as a practical matter, no real hope for those people who are suffering from jet noise. It is, at least it will be, a sign, and for that reason it is noteworthy of the anger and frustration of Members of Congress over the failure of the administrative agency to act.

Now, I want to direct my comments to you and the commitment of necessity of acting now on behalf of those Members of Congress that have a deep interest in the jet noise problem in getting the White House to move this retrofit program forward. The program is really at the edge of the decisionmaking process and by that I mean it is about to go over the cliff, and hopefully will fall into an action status.

But the White House, and I think the reason that Secretary Coleman is not here today, as I understand it, is because he does not have the authority to come here and make a statement as to the final decision on the retrofit program because they are just finally deciding what that position is and that is going on as we sit here talking. I know the President has been directly involved in the last week or so and I understand they have some concerns about the proposal that has been put forth by the Secretary of Transportation. A lot of it, apparently, is a financial concern generated by the Office of Management and Budget.

There are some concerns about the way this program might impact the industry so far as it might look like the industry is getting something for nothing and I, of course, never really have seen Mr. Coleman's program and it has never been sent to me and, officially, as an official program, but it has been written about, and so forth, in many places, and I presume most of the facts regarding it are generally known.

My point is that I get the feeling that the White House, at this point, is looking for congressional input. They want to hear from the Members who are really concerned about this. They want to know what support they can expect in those parts of the program that may require legislation.

They would like to know, generally, what the Members of the Congress feel about the program, what kind of reception it can expect on Capitol Hill. So, I would think, and I urge the members of this subcommittee, yourself and the other members, to give them that kind of input and give it now because I think the decision is going to be made within a matter of days and I am pushing as hard as I can at this level to see that it is a positive decision.

Mr. Chairman, another thing I would like to bring to the attention of the subcommittee—there are two things that always disturb me when we get into the discussion of jet noise—three, really.

One is the issue of safety that is always raised by doing anything about this retrofitting of planes or changing the procedures in landing and takeoffs. We have suddenly got a tremendous safety factor brought in and we are told that anything that reduces jet noise would add an element of danger to the operation of the aircraft and, therefore, we should not do it. I really think we should reject that argument. Most of it does not stand up on analysis, because I notice myself as a passenger on an airline who is very concerned with safety, obviously, that the airlines will take all kinds of changes as long as it has an economic benefit to the airline. They certainly, for example, add tremendous widths to aircraft or fancy interiors, and things of that nature, and never seem to worry much about the element of safety, but if you put on any kind of treatment that reduces jet noise they feel that might endanger the performance of the plane.

I have also noticed that when it comes to moving aircraft into—in and out of airports we find ourselves in holding patterns sometimes for endless periods of time because they are trying to land and take so many planes off at the same airport. Obviously, this is for economic reasons, but I would think those holding patterns are very unsafe and render a high degree of danger to the passengers and the public. I just do not think we should take those statements of safety so seriously

as they are put forth because they always are pulled out when it costs the airlines something to do it and it is in the jet noise field.

I have listened to the discussion you had this morning about zoning and responsibility of local government. I do not take this too seriously, either, because in my area, Mr. Chairman, I can tell you I have asked when they came in with that thought, maybe we should rezone around the end of airport. And I have said, "How far would you go?" I am getting complaints about jet noise from touchdown on. I said, "Are you going to rezone all the land 10 miles away from the airport if you really built one and put that into some kind of zoning situation of that type?"

And, of course, that generally ends the discussion and I do not think that is the answer. If the airport has created a problem for the community, we should at least do something about the jet noise and what can we do about it?

That seems to be the answer. Nobody is asking them to do the impossible, but if they can retrofit the planes, reduce the jet noise of the planes, that is what should be done and, of course, that is what we are here arguing about. We have been arguing about 14 years, in my experience, now in this legislative and administrative process. It is still the same old argument.

The final thing I would like to touch on, Mr. Chairman, is the importance of your committee's work as it is related to my committee's work and, of course, I am the ranking member of the R. & D. Subcommittee on Science and Technology, relating to aircraft problems. I found it impossible, frankly, to deal with R. & D. without dealing with regulations, and I think it would probably be impossible for you to deal with regulations without concerning yourself and involving yourself with R. & D.—these two things, it seems to me, actually, go together.

I do not know how we can work this out, but I think maybe possibly we could have some kind of a joint session, things of this nature, where we could not get into this problem of trying to separate out in our discussions that is R. & D. and you do not talk about that, and this is regulations, you do not talk about that. Because if we do that in a vacuum, either way, I do not think either committee can do any thoroughly effective job, and I just tell you that I would be willing in every way I can to work out a cooperative arrangement agreement where we could sit together, work together on parts of this program where, obviously, R. & D. regulations go hand in hand and must be considered in the context with each other.

That is the basis of what I wanted to tell you today. I just hope that the committee will give input to the White House at this crucial moment in the history of the decision on retrofit, and I was just hoping that decision will be a positive one and make this bill not necessary, or, at least, something that we can look back on and say it helped to make the decision at the White House and not only assure Mr. Mineta that the White House or the administration does not affirmatively act on this problem. I would be delighted to sponsor his bill and fight with him side by side in every attempt to get passage as quickly as we possibly can. It would be a public service.

Thank you, Mr. Chairman.

Mr. ANDERSON. Well, thank you, Jack, for a very fine presentation. I want to again express our appreciation for your offer of cooperation

with the R. & D. Subcommittee of Science and Technology. I might say that several of our members are already on your committee so we felt we had somewhat that kind of an arrangement—Mr. Milford, Mr. Goldwater, several of them are on the same committee—so we have a great input between them, and, on top of that, when you presented your R. & D. budget we took it and put it on the ADAP bill, in total, without changing a comma, if I remember right. So there is no problem there although we would be very happy any time we have any issues coming up to have you sit in with us or any other members of the R. & D. subcommittee.

Mr. WYDLER. I am sure you realize the only reason I am making this point is, again, my frustration over the fact that we may go out and spend millions of dollars which we have done as a practical matter on developing the research and development for retrofit—millions of dollars of taxpayers' money. It is not going to mean anything to anybody unless it is put into practice and use. We have to be working toward that end in these kinds of matters or otherwise we are just wasting the taxpayers' money and that is why I feel so strongly that we, you know, we have just got to find a way to implement the research and development of the technology that we are developing.

Mr. ANDERSON. I have noticed that of the coauthors of the bill Mr. Mineta introduced, 107 Members, I believe, you are the only Republican with the exception of Al Bell who is leaving this time—is there anything significant to that or is that just an incidental way of——

Mr. WYDLER. Well, with my state of mind, Mr. Chairman, on this, I am, thoroughly, for the intent and purposes of the legislation. I tried to explain to you I am hopeful that the administration is going to act and act as positively as they can on this matter and possibly if they do that it will not be necessary for me to sponsor the bill, and if they do not, I will.

Mr. ANDERSON. I was confused and I thought these were all cosponsors and I see some are cosponsors, some have written letters to the DOT and you have written a letter to the DOT.

Mr. WYDLER. Yes; many times. I am expressing an administrative action because it is something that we can get, we could have this program approved within the next few weeks. And that is why I think it offers a real hope to the public and I am just trying to stretch that and unless that is turned down——

Mr. ANDERSON. That even makes it more of the point that Al Bell is the only one who coauthored this bill, and you mentioned congressional input to the administration to encourage them to come to some legislative or administrative action.

Has the Republican membership decided not to go along with retrofit or do they have some other vehicle that they are working on? In other words, how does the congressional input get to the administration to encourage them to take administrative action unless we do things like write letters or coauthor bills that we sent to them to get them to move, aside from passing the bill?

Mr. WYDLER. There are plenty of Republican Members, and I just notice, looking at this H.R. 14072, I see—unless I do not know how you define them, but Mr. Gude is on the list. I see Mr. Hyde on that

list. I mean, how do you define them, so I mean they felt, you know, that would bring the kind of pressure, but every person can do it in his own way. I would think that, frankly, at this point, much more effectively—I do not know if this bill is being, you know, looked at right now in the White House, but I would think as a very good way for the committee to act and yourself to act and this really is what I am urging, either suggesting more drastic action; I hear a telephone call from yourself or one of the most respected people in this area, and certainly your views and opinions would be most helpful to push them at this time, either by telephone, which would be the best, or by letter, which would be the second best, directly relating to the decision they are making now in the White House and directed to that.

Mr. ANDERSON. Mr. Mineta.

Mr. MINETA. No questions, other than to thank Jack for his help on this matter. I think the work of the Subcommittee on Aviation and R. & D. is very important and this is really a well taken point. You make a good point where you cannot separate R. & D. from the regulations. I think we ought to follow up on that.

Thank you very, very much, Jack.

Mr. ANDERSON. Mr. Levitas.

Mr. LEVITAS. No questions.

Mr. ANDERSON. Thank you very much for your presentation.

Anything further?

Meeting is adjourned.

[Whereupon, at 11:23 a.m., the subcommittee was recessed, to reconvene at the call of the Chair.]

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