

**EPA OPENING STATEMENT**  
**FAA Hearings on EPA-Proposed NPRM on**  
**AIRPLANE NOISE REQUIREMENTS**

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**U.S. ENVIRONMENTAL PROTECTION AGENCY**  
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In presenting this statement, our intent is to provide a clear exposition of the views of the Environmental Protection Agency, with respect to both the proposed Airplane Noise Requirements that are the subject of today's hearing and the general question of controlling the noise impact of commercial supersonic transport airplanes.

The fundamental position of EPA on aircraft noise in general, and SST noise in particular can be summarized as follows:

1. The noise impact in the vicinity of many airports, due to airplane operations, is already at an unacceptably high level.
2. In order to protect the public health and welfare, the noise impact due to airplane operations must be reduced substantially — and in no event should be allowed to increase.
3. EPA has outlined, in its Report to Congress on Aircraft-Airport Noise, and elsewhere, the regulatory actions believed necessary and feasible to reduce the health and welfare impact of airplane noise. The aircraft and airport noise regulations projected by EPA would result in a substantial decrease in the national noise impact due to airplane operations but even further abatement actions will be necessary to provide for the protection of the public health and welfare completely against aircraft noise.
4. In consonance with the foregoing principles (and as proposed in Notice 76-1) EPA believes that, given the already high levels permitted for subsonic aircraft under Federal Aviation Regulations (FAR 36) as now constituted, no supersonic airplane should be allowed to operate at U.S. airports unless it conforms to those noise level requirements for subsonic airplanes.
5. EPA believes further, that the FAR 36 noise level requirements for all aircraft should be made more stringent.

What is the recent history of EPA action on proposed airplane noise regulations, and how does it relate to EPA's position as enunciated here? Table 1 lists the proposed regulations submitted to FAA by EPA under the Noise Control Act of 1972. Table 2 lists those regulatory proposals which are still being developed by EPA and are planned for submittal to the FAA. The regulatory proposals listed in these tables represent the current EPA program on aircraft and airport noise as described in the EPA Report to Congress and elsewhere.

With respect to the question of supersonic transport (SST) noise, the EPA has submitted to FAA two proposals. These are NPRM 75-15, "Civil Supersonic Airplanes," and the one being considered at the present hearing, NPRM 76-1, "Airplane Noise Requirements for Operation To or From U.S. Airports." In addition to submitting these two regulatory proposals on SST's, the EPA also presented testimony at the hearing held by Secretary of Transportation Coleman on January 5, 1976, regarding the requests by British Airways and Air France to permit operations of the Concorde SST at Kennedy and Dulles Airports. This testimony was supplemented by a letter submittal on January 13. It is the issues raised by and in those submitted documents that are addressed herein.

In developing NPRM 75-15, the EPA reviewed the data then available on noise emissions and noise control technology relative to the existing SST's (Concorde and TU-144). As a result of this review, we concluded that there is no technology currently available that would allow controlling the noise emissions of the Concorde to the noise levels prescribed for subsonic aircraft under FAR 36. The EPA, in NPRM 75-15, set forth appropriate FAR 36 noise requirements for type certification of future new design SST's and for airworthiness certification of future production airplanes of current SST types. In addition, to extend to the SST's of foreign airlines the control on noise impact imposed on domestic airlines by the certification requirements, NPRM 75-15 proposed an operating rule that would require future production airplanes of current SST types to meet those FAR 36 noise standards.

**Table 1. Aircraft Noise Regulations Proposed by EPA to FAA**

	<b>Title</b>	<b>Date to FAA</b>	<b>NPRM No. Pub. Date Fed. Reg. Ref.</b>	<b>Date of Hearings</b>	<b>FAA Response to Date</b>
1.	Noise Standards for Propeller Driven Small Airplanes	6 Dec 74	74-39 6 Jan 75 40 FR 1061	3 Mar 75	None
2.	Noise Abatement Minimum Altitudes for Turbojet Powered Airplanes in Terminal Areas	6 Dec 74	74-40 6 Jan 75 40 FR 1072	5 Mar 75	None
3.	Civil Subsonic Turbojet Engine-Powered Airplanes: Noise Retrofit Requirements	28 Jan 75	75-5 26 Feb 75 40 FR 8218	18 Mar 75	None
4.	Fleet Noise Level Requirements	28 Jan 75	75-6 26 Feb 75 40 FR 8222	17 Apr 75	None
5.	Civil Supersonic Airplanes	27 Feb 75	75-15 28 Mar 75 40 FR 14093	16 May 75 LA 22 May 75 DC	None
6.	Reduced Flap Setting Noise Abatement Approach for Turbojet Engine-Powered Airplanes	29 Aug 75	75-35 I 25 Sep 75 40 FR 44256	5 Nov 75	None
7.	Visual Two-Segment Noise Abatement Approach for Turbojet Engine-Powered Airplanes	29 Aug 75	75-35 II 25 Sep 75 40 FR 44256	5 Nov 75	None
8.	Two-Segment ILS Noise Abatement Approach for Turbojet Engine-Powered Airplanes	29 Aug 75	75-35 III 25 Sep 75 40 FR 44256	5 Nov 75	None
9.	Airplane Noise Requirements for Operation To or From U.S. Airports	13 Jan 76	76-1 12 Feb 76 41 FR 6270	5 Apr 76	

**Table 2. Aircraft Noise Regulations to be Proposed by EPA to FAA**

	<b>Title</b>	<b>Status</b>
10.	Noise Levels for Turbojet Powered Airplanes and Large Propeller Driven Airplanes	In EPA Review
11.	Modifications to Noise Measurement and Evaluation Procedures for Aircraft Type and Airworthiness Certification	In EPA Review
12.	Aircraft Takeoff Procedures for Noise Control	In Preparation

With respect to SST aircraft already produced or committed to production, the EPA did not propose a specific rule. Instead, in its preamble to the proposed SST rule, the EPA reviewed eight different options for the FAA to consider, ranging from an outright ban on the one extreme to a complete lack of controls on the other extreme. The EPA suggested that all eight options be considered in the FAA hearings on the proposed rule and in subsequent deliberations. EPA indicated its tentative preference, at that time, for the option whereby individual airports with minimal population noise impacts would be considered by the FAA for non-FAR 36 SST operations on a case-by-case basis, with additional review and approval required by the airport operator. It was indicated that any such operations would likely require restrictions such as a requirement that take-offs and landings be restricted to designated noise abatement runways to avoid noise-sensitive areas and restrictions on the number of flights at the airport in question. It was further suggested that hearings be held at each airport considered, with public participation encouraged, prior to formulation of a decision by FAA and the airport operator. The EPA submitted the NPRM containing the foregoing provisions to FAA, which published it in the *Federal Register* as NPRM 75-15 on 28 March 1975.

In March 1975, subsequent to EPA's initial proposal and in response to applications for Concorde operations at Dulles and JFK, DOT published a draft environmental impact statement, "Concorde Supersonic Aircraft." This DEIS was reviewed by EPA, which rated the statement as an ER-2 (indicating reservations as to the environmental impact of the action and insufficient with regard to the material presented).

In September 1975 the DOT issued the final EIS on Concorde operations at Dulles and JFK. This EIS, and the review of the entire matter within EPA which resulted, strengthened the Agency's previous reservations regarding the Concorde as stated in NPRM 75-15 of February 1975 and in the draft EIS review of May 1975. As a result, the Agency recommended that the Concorde applications for JFK and Dulles be rejected as contrary to the national noise abatement policy. The reasons were set forth in the Agency's statement at the January 5, 1976 hearing held by Secretary Coleman.

Chief among EPA's concerns was that approval of the initial applications would very likely lead to substantially increased numbers of Concorde flights at the affected airports in the relatively near future. The additional noise exposure associated with such flights would essentially nullify the benefits we had been attempting to achieve by our other proposed aircraft noise regulations, particularly NPRM 75-5 on Noise Retrofit Requirements. We believed that such a situation would be untenable, and that EPA had to enunciate a position that clearly spelled out our opposition to such an outcome.

This position was set forth formally in NPRM 76-1, which is the subject of the present hearing. This modification of our original proposed regulation, extending the coverage to existing as well as future production SST's, brings our regulatory position more clearly into line with the views expressed at the January 5 hearing.

The basic principle presented in NPRM 76-1 is that all transport category aircraft be required to conform to FAR 36 noise levels in order to be allowed to operate at U.S. airports. The specific expression of this principle was couched as an operating rule, to extend control to the airplanes of foreign airlines as in NPRM 75-15; it also provided an effective mechanism for controlling the noise impact of airplanes which had type certification in being or in process. In addition, the effective dates of the proposed rule were designed for consistency with the effective dates for subsonic jet aircraft set forth in the present form of FAR 36.

This proposed rule, which is clearly infeasible for the present generation of Concorde to meet, would be a departure from past practice of the FAA in terms of the technical feasibility of its proposals. Some of the comments which we have heard concerning this proposal obviously are based upon an interpretation that the Noise Control Act of 1972 requires that any rule promulgated under Section 611 must be technologically feasible. We believe this is an improper reading of the Act. Technological feasibility is clearly to be "*considered*" carefully in promulgating any rule under this Section of the Act, but in no sense is a finding of technological feasibility a *sine qua non* for a rule. The protection of

health and welfare can and must in some cases take precedence over technical feasibility. In many cases, these goals are reasonably compatible. In the case of the Concorde, we have concluded that they are not. If one followed the argument that a finding of technological feasibility is a necessary requirement to the extreme, one can see the absurd nature of such an interpretation of the Act. Such a reading would mandate allowing even extraordinarily noisy aircraft to fly in this country. Obviously, there could occur a situation where very little noise control would be technologically feasible, but where the health and welfare effects would be devastating. Such a strained interpretation of the Act which we have been discussing would mean that even in such a case the aircraft must be allowed to fly in the United States.

The decision whether to allow technological infeasibility to override the health and welfare protection of this Nation's citizens depends to a large extent on the benefits to be derived from allowing the aircraft to operate, on the one hand, and the degree of the health and welfare risks which would thereby be imposed, on the other hand. EPA believes that the benefits of allowing the Concorde to fly to the United States are likely to be very small, but that the adverse impact on the national aircraft noise abatement program would be great. As such, we have concluded that in this case a rule which constitutes essentially a ban of a particular kind of aircraft is appropriate and is fully authorized by the Noise Control Act. It should be emphasized that this rule is aimed, not at supersonic transports per se, but at unacceptably noisy airplanes, of which the Concorde is an extreme example.

Since none of the proposed rules submitted to FAA by EPA has been acted on as yet, NPRM 76-1 was written in a context of uncertainty regarding the possible promulgation of those other rules by the FAA. Consequently, one may find certain redundancies and apparent inconsistencies between this rule and one or more of the other aircraft noise rules proposed by EPA.

The rule, which is now designated NPRM 76-1, was drafted in a very short period of time to meet the deadline for the record of the Secretary's hearing on the Concorde applications. A number of



technical difficulties understandably were encountered. We believe that we overcame these adequately in the rule which was submitted. However, it is conceivable that there may be technical difficulties in the draft. For this reason, it is important, we believe, in this hearing to focus not upon the technical wording of this proposal, but on the intent, as explained in Mr. Train's January 13, 1976 transmittal letter to the FAA Administration, in the preamble, and in this statement. If the rule should prove to be technically deficient, we would expect the FAA in good faith to draft a more adequate rule which would carry out the original intent and to respond accordingly. We have every expectation that the FAA will deal fairly and meaningfully with the intent of the proposed rule as well as with its technical sufficiency.

It should be clearly understood that EPA continues to support retrofit of the current fleet of subsonic civil aircraft; and this new proposed NPRM 76-1 should not be interpreted in any way as a backing away from that position.