

United States Code  
Title 49: Transportation  
Subtitle VII: Aviation Programs  
Chapter 447: Safety Regulation

Current as of July 10, 2000

Sec. 44715. Controlling aircraft noise and sonic boom

(a) Standards and Regulations. -- (1)(A) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe --

- (i) standards to measure aircraft noise and sonic boom; and
- (ii) regulations to control and abate aircraft noise and sonic boom.

(B) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

(2) The Administrator of the Federal Aviation Administration may prescribe standards and regulations under this subsection only after consulting with the Administrator of the Environmental Protection Agency. The standards and regulations shall be applied when issuing, amending, modifying, suspending, or revoking a certificate authorized under this chapter.

(3) An original type certificate may be issued under section 44704 (a) of this title for an aircraft for which substantial noise abatement can be achieved only after the Administrator of the Federal Aviation Administration prescribes standards and regulations under this section that apply to that aircraft.

(b) Considerations and Consultation. -- When prescribing a standard or regulation under this section, the Administrator of the Federal Aviation Administration shall --

- (1) consider relevant information related to aircraft noise and sonic boom;
- (2) consult with appropriate departments, agencies, and instrumentalities of the United States Government and State and interstate authorities;
- (3) consider whether the standard or regulation is consistent with the highest degree of safety in air transportation or air commerce in the public interest;

(4) consider whether the standard or regulation is economically reasonable, technologically practicable, and appropriate for the applicable aircraft, aircraft engine, appliance, or certificate; and

(5) consider the extent to which the standard or regulation will carry out the purposes of this section.

(c) Proposed Regulations of Administrator of Environmental Protection Agency. -- The Administrator of the Environmental Protection Agency shall submit to the Administrator of the Federal Aviation Administration proposed regulations to control and abate aircraft noise and sonic boom (including control and abatement through the use of the authority of the Administrator of the Federal Aviation Administration) that the Administrator of the Environmental Protection Agency considers necessary to protect the public health and welfare. The Administrator of the Federal Aviation Administration shall consider those proposed regulations and shall publish them in a notice of proposed regulations not later than 30 days after they are received. Not later than 60 days after publication, the Administrator of the Federal Aviation Administration shall begin a hearing at which interested persons are given an opportunity for oral and written presentations. Not later than 90 days after the hearing is completed and after consulting with the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration shall --

(1) prescribe regulations as provided by this section --

(A) substantially the same as the proposed regulations submitted by the Administrator of the Environmental Protection Agency; or

(B) that amend the proposed regulations; or

(2) publish in the Federal Register --

(A) a notice that no regulation is being prescribed in response to the proposed regulations of the Administrator of the Environmental Protection Agency;

(B) a detailed analysis of, and response to, all information the Administrator of the Environmental Protection Agency submitted with the proposed regulations; and

(C) a detailed explanation of why no regulation is being prescribed.

(d) Consultation and Reports. -- (1) If the Administrator of the Environmental Protection Agency believes that the action of the Administrator of the Federal Aviation Administration under subsection (c)(1)(B) or (2) of this section does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations in subsection (b) of this section, the Administrator of the Environmental Protection Agency shall consult with the Administrator of the

Federal Aviation Administration and may request a report on the advisability of prescribing the regulation as originally proposed. The request, including a detailed statement of the information on which the request is based, shall be published in the Federal Register.

(2) The Administrator of the Federal Aviation Administration shall report to the Administrator of the Environmental Protection Agency within the time, if any, specified in the request. However, the time specified must be at least 90 days after the date of the request. The report shall --

(A) be accompanied by a detailed statement of the findings of the Administrator of the Federal Aviation Administration and the reasons for the findings;

(B) identify any statement related to an action under subsection (c) of this section filed under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(C) specify whether and where that statement is available for public inspection; and

(D) be published in the Federal Register unless the request proposes specific action by the Administrator of the Federal Aviation Administration and the report indicates that action will be taken.

(e) Supplemental Reports. -- The Administrator of the Environmental Protection Agency may request the Administrator of the Federal Aviation Administration to file a supplemental report if the report under subsection (d) of this section indicates that the proposed regulations under subsection (c) of this section, for which a statement under section 102(2)(C) of the Act (42 U.S.C. 4332(2)(C)) is not required, should not be prescribed. The supplemental report shall be published in the Federal Register within the time the Administrator of the Environmental Protection Agency specifies. However, the time specified must be at least 90 days after the date of the request. The supplemental report shall contain a comparison of the environmental effects, including those that cannot be avoided, of the action of the Administrator of the Federal Aviation Administration and the proposed regulations of the Administrator of the Environmental Protection Agency.

(f) Exemptions. -- An exemption from a standard or regulation prescribed under this section may be granted only if, before granting the exemption, the Administrator of the Federal Aviation Administration consults with the Administrator of the Environmental Protection Agency. However, if the Administrator of the Federal Aviation Administration finds that safety in air transportation or air commerce requires an exemption before the Administrator of the Environmental Protection Agency can be consulted, the exemption may be granted. The Administrator of the Federal Aviation Administration shall consult with the Administrator of the

Environmental Protection Agency as soon as practicable after the exemption is granted.

#### Legislative history

Aug. 23, 1958, Pub.L. 85-276, 72 Stat. 731, § 611(a), (b), (c), (d)

July 22, 1968, Pub.L. 90-411, § 1, 82 Stat. 395

Oct. 27, 1972, Pub.L. 92-574, § 7(b), 86 Stat. 1239

Nov. 8, 1978, Pub.L. 95-609, § 3, 92 Stat. 3080

July 5, 1994, Pub.L. 103-272, § 1(e), 108 Stat. 1196

Oct. 9, 1996, Pub.L. 104-264, § 406(a), 110 Stat. 3257. (See House Report No. 104-714 and House Conference Report No. 104-848; 1996 U.S. Code Cong. and Adm. News, p. 3658.)

#### Citation in Cases

*Airmark Corp. v. FAA* (Ct. App. D.C. Cir. 1985), 758 F.2d 685.

*British Airways Bd. v. Port Authority of New York* (Ct. App. 2d Cir. 1977), 558 F.2d 75.

*Burbank-Glendale-Pasadena Airport Authority v. City of Los Angeles* (Ct. App. 9th Cir. 1992), 979 F.2d 1338.

*Capitol Technical Services, Inc. v. FAA* (Ct. App. D.C. Cir. 1986), 791 F.2d 964.

*City of Burbank v. Lockheed Air Terminal Inc.* (U.S. Sup. Ct. 1973), 93 S.Ct. 1854, 411 U.S. 624.

*City of Cleveland, Ohio v. City of Brook Park, Ohio* (N.D. Ohio 1995), 893 F.Supp. 742.

*Corace v. Butterfield* (E.D. N.Y. 1975), 387 F.Supp. 446.

*Global Intern. Airways Corp. v. Port Authority of New York and New Jersey* (Ct. App. 2d Cir. 1984), 727 F.2d 246.

*People of the State of Ill. v. FAA* (Ct. App. D.C. Cir. 1987), 832 F.2d 168.