



Air Transport Association

April 5, 2007

BY ELECTRONIC MAIL: jake.plante@faa.gov

Dr. Jake Plante
Planning and Environmental Division
Federal Aviation Administration
800 Independence Avenue, APP-400, SW
Room 616, Office of Airports
Washington, DC 20591

**RE: Supplemental Comments on Draft List of “Presumed to Conform” Actions,
72 Fed. Reg. 6641 (Feb. 12, 2007)**

Dear Dr. Plante:

I write on behalf of the Air Transport Association of America, Inc. (ATA)¹ to provide ATA’s supplemental comments concerning the Federal Aviation Administration’s recent draft providing a list of actions that are “presumed to conform” to an applicable State Implementation Plan under the general conformity regulations. ATA submitted joint comments on March 30, 2007, together with the Air Carrier Association of America, the Airport Consultants Council, and Airports Council International – North America. ATA submits these supplemental comments pursuant to discussions with FAA allowing submission by April 5, 2007.

In addition to the points raised in the joint comments submitted March 30, ATA writes separately to emphasize that the mere fact that an action may not currently be included in an FAA “presumed to conform” list does not, in and of itself, mean that it requires, or should be presumed to require, a conformity analysis or determination consistent with 40 C.F.R. § 93.153(b) or (c)(2). In particular, decisions by the FAA regarding approvals of operations that are of the same type and nature of operations already occurring at an airport should be determined based solely upon the considerations identified in the applicable FAA statutory or regulatory provisions – *i.e.*, Title 49 of the United States Code and the Federal Aviation Regulations (codified at Title 14 of the Code of Federal Regulations), and relevant FAA

¹ ATA is the principal trade and service organization of the U.S. scheduled airline industry, and in that capacity regularly comments on federal and state regulatory developments. ATA airline members transport more than 90 percent of all U.S. airline passenger and cargo traffic. The members of the Association are: ABX Air, Inc., Alaska Airlines, Inc., Aloha Airlines, American Airlines, Inc., ASTAR Air Cargo, Inc., Atlas Air, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., Evergreen International Airlines, Inc., FedEx Corporation, Hawaiian Airlines, JetBlue Airways Corp., Midwest Airlines, Inc., Northwest Airlines, Inc., Southwest Airlines Co., United Airlines, Inc., UPS Airlines, US Airways, Inc.; associate members are: Air Canada, Air Jamaica Ltd., Mexicana.

interpretive guidance. By the same token, although FAA identifies “aviation noise abatement” among FAA rulemaking and policy activities exempt from general conformity analysis (72 Fed. Reg. at 6643), the mention of noise abatement in this context should not necessarily obviate any need for conformity analysis, if otherwise required, where new, generally applicable aviation noise abatement procedures directly cause increased emissions.²

Please contact me at 202-626-4216 if you have any questions or would like additional information in connection with any of the points raised in these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim', with a large, stylized initial 'P' or 'R' above it.

Timothy Pohle
Assistant General Counsel – Environmental Affairs
Air Transport Association of America, Inc.

² In addition, in the Federal Register Notice, FAA describes air traffic actions below the mixing height as presumed to conform when modifications to routes and procedures “are designed to increase safety,” among other things. 72 Fed. Reg. at 6654. However, the presumption should not be limited to actions designed to actually “increase” safety, but should also extend to actions designed to “preserve” safety.