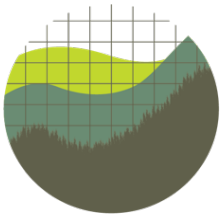

Institute *for*
Policy Integrity
NEW YORK UNIVERSITY SCHOOL OF LAW

August 17, 2026

To: Federal Aviation Administration

Re: Comments on Enabling Supersonic Overland Flight, 91 Fed. Reg. 40,470 (July 2, 2026) (Docket FAA-2026-6935; RIN 2120-AM15)

The Institute for Policy Integrity at New York University School of Law (Policy Integrity)[1] respectfully submits the following comments to the Federal Aviation Administration (FAA) regarding its proposed rule to replace the current ban on commercial supersonic overland flight with a noise-based standard.[2] Policy Integrity is a non-partisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in the fields of administrative law, economics, and public policy.

Because of emerging technological developments, FAA's overland noise and speed limits are an ideal candidate for retrospective review. FAA proposes to shift from a prescriptive standard aimed at an indirect proxy (i.e., a speed limit) to a performance standard aimed directly at the regulatory target (i.e., overpressure and noise). FAA anticipates the revision will yield cost savings for industry and societal benefits by fostering the development of supersonic flights.

FAA proposes a multi-step regulatory process, with this proposal as the first step. FAA should take advantage of this multi-step process to ensure that its eventual suite of standards will both support the supersonic industry and protect the public from potential adverse impacts. As FAA acknowledges, the proposal's effects include uncertain costs and benefits. FAA should take the following steps to best position itself to design benefit-cost justified regulations:

- **Acknowledge in the final rule the presence of uncertain costs** relating to (1) the risk that some authorized operators may accidentally exceed the pressure limit, (2) the risk that overpressures within the limit may still have impacts to public health and welfare through evanescent waves, unheard secondary sonic booms, or sonic booms refracted through the atmosphere.
- Assess whether the likely overall benefits of the final rule will justify these uncertain costs, and **explicitly state in the final rule that benefits justify costs**.
- **Announce in the final rule a timeline and adequate resources for quantifying and monetizing potential impacts to public health and welfare**, so future rulemakings can more completely analyze effects and ensure that FAA's eventual suite of regulations will both support the supersonic industry and maximize net public welfare.

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[1] This document does not purport to present the views, if any, of New York University School of Law.

[2] 91 Fed. Reg. 40,470 (July 2, 2026).

I. In the Final Rule, FAA Should Acknowledge Uncertain Costs and Risks.

The shift to a 0.11 pounds per square foot (psf) pressure- and noise-based standard represents a well-reasoned, flexible approach to replacing a rigid speed limit. To ensure the final regulatory framework is as robust as possible, FAA's economic analysis can be strengthened by expanding its consideration of key uncertainties.

First, there is a risk that authorized operators may accidentally exceed the 0.11psf limit. Both the technologies to mitigate sonic booms, and the methodologies for operators to model their anticipated overpressures to demonstrate to the FAA that they can comply with the standard, are novel. For example, implementation of the Mach cutoff operations (MCO) technique is subject to "uncertainty in the terrain, actual weather, and atmospheric parameters that ensure MCO are achievable along the flight path."[3] If these novel models and technologies do not perform as anticipated, some populations on the ground—either within the "isolated test areas"[4] during research and testing, or more broadly—may be exposed to overpressures exceeding 0.11psf.

Second, there is a risk that overpressures below the 0.11psf limit may still affect public health and welfare. FAA acknowledges there is a "lack of integrated metric data available to determine a tolerable level of sonic boom at the surface."[5] It is possible that "evanescent waves,"[6] "unheard secondary sonic booms,"[7] or sonic booms refracted through the atmosphere[8] may still affect sleep patterns, stress-related health conditions,[9] or infrastructure vulnerable to vibrations.[10]

In the final rule, FAA should assure the public that it has thoroughly considered these uncertain costs and—after assessing all unquantified and uncertain costs and benefits under Executive Order 12,866—continues to determine that the benefits of the regulatory change justify the costs. At the same time, FAA should announce concrete actions it will take to quantify these uncertain effects in the future, so future steps in this multi-stage regulatory process can more completely conduct benefit-cost analyses to help the agency develop rules that will maximize public welfare—as detailed in the next section of these comments.

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[3] *Id*. at 40,476.

[4] *Id.* at 40,471.

[5] *Id.* at 40,475.

[6] *Id.* at 40,474.

[7] *Id.* at 40,475.

[8] *Id.* at 40,478.

[9] *Id.* at 40,475 (noting the public's historic concerns over health impacts); *id.* at 40,474 (acknowledging that future regulation of evanescent waves and other noise associated with supersonic flights may be necessary "to protect public health and welfare"); *id.* at 40,478 n.48 (acknowledging that "protection from secondary sonic booms…was needed).

[10] *Id.* at 40,478 (noting that even secondary sonic booms that are difficult to notice may still "manifest indoors as vibrations").

II. Proactively Quantifying Potential Health and Welfare Effects Positions FAA to Design Future Rules that Both Support Industry and Maximize Public Welfare.

FAA acknowledges that additional research needs to be conducted to better understand the effects to public health and welfare of sonic booms.[11] FAA should partner with NASA,[12] EPA,[13] and the International Civil Aviation Organization (ICAO)'s Committee on Aviation Environmental Protection to study the potential effects of evanescent waves, unheard secondary sonic booms, and overpressures exceeding 0.11psf that may accidentally occur under FAA's proposed regulatory structure.

Congress and the courts will expect FAA to demonstrate that its regulations will "control and abate" both "noise and sonic boom[s]" in a way that will "protect the public health and welfare,"[14] "consistent with the highest degree of safety…in the public interest."[15] Ultimately, FAA should ensure that the operation of civil supersonic aircraft produces "public and economic benefits."[16] To that end, FAA should begin work now on the following steps:

(1) Quantifying the likely extent of evanescent waves, unheard secondary sonic booms, sonic booms refracted through the atmosphere, and overpressures accidentally exceeding 0.11psf that the public and the environment may experience under the proposed regulatory structure;

(2) Monetizing the likely effects of those waves to public health and welfare; and

(3) Comparing those effects to likely benefits to the public from supersonic travel (such as from travel time savings, net changes to consumer surplus from air travel, and so forth).

In the final rule, FAA should announce a specific timeline—supported with adequate agency resources—to quantify possible effects of noise and overpressures from supersonic aircraft. FAA should specify that among other potential effects, it will assess those effects highlighted in ICAO's 2017 consensus paper, such as: sleep disruptions, cardiovascular and physiological stress, cognitive impacts, and damage to buildings and infrastructure from vibrations, as well as possible effects to marine life from over-water operations and to terrestrial

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[11] *Id.* at 40,474 ("[O]ngoing research is working to address the characterization of sonic booms and how to limit their impacts").

[12] In connection with the National Aeronautics and Space Administration (NASA)'s Quesst Mission and its broader expertise on sonic booms.

[13] Pursuant to requirements in 49 U.S.C. §§ 44715(a)(1)(B) & (a)(2) to consult with the Environmental Protection Agency (EPA).

[14] 49 U.S.C. § 44715(a)(1)(A).

[15] *Id.* § 44715(b)(3); *see also* Pub. L. 115-254 § 181, 132 Stat. 3230 (Oct. 5, 2018).

[16] Pub. L. 115-254 § 181(b)(2)(B)(iii), 132 Stat. 3231; *see also* Exec. Order 12,866 (requiring regulations maximize net social benefits).

plants and animals from over-land operations.[17] FAA should monetize those potential effects to the extent feasible, building on work by the United Kingdom's Department for Environment, Food & Rural Affairs (Defra) to monetize environmental noise impacts (including from sleep disturbances, cardiovascular events, and public annoyance) for use in their benefit-cost analyses.[18]

FAA should align the timing of efforts to quantify and monetize such effects to harmonize with its timeline for the next steps in its multi-stage regulatory process, so that future rulemakings can more completely assess the costs and benefits to the public. **In the final rule, FAA should call on industry to support these research efforts, including by collecting any data that FAA might need to quantify and monetize these effects.** FAA should also highlight for academic researchers any needs for independent research support, including a timeline for when independent researchers would need to publish their data to be most useful to FAA in future rulemakings.

FAA's proposed transition to a noise-based standard is a forward-thinking policy that recognizes the need for regulations to adapt to emerging technological innovations.[19] To fully realize the potential of this rule and secure a sustainable regulatory path forward for commercial supersonic flight, FAA should complement its updated technical standards with equally advanced economic analysis. Beginning to invest now in analytical tools to quantify and monetize key effects will position the FAA to support the development of the supersonic industry in a manner that is fully consistent with overall public welfare and long-term economic prosperity.

Sincerely,

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[17] Mathias Basner et al., Aviation Noise Impacts: State of the Science, 19 Noise & Health 41 (2017) (consensus paper by the Impacts of Science Group of the Committee for Aviation Environmental Protection of ICAO, including discussion of civilian supersonic aircraft as a future source of aviation noise).

[18] Defra, Noise Pollution: Economic Analysis (2013), https://www.gov.uk/guidance/noise-pollution-economic-analysis.

[19] Note that these comments do not address any emissions standards that may be necessary for supersonic commercial flights, which should be regulated appropriately by EPA and FAA under separate authorities.