

SUMMARY of NOISE CONTROL ACT of 1972

(PL 92-574)



U.S. ENVIRONMENTAL PROTECTION AGENCY • WASHINGTON, D.C. 20460

Noise is a growing menace, not just to boilermakers and jackhammer operators, but to all of us. We are all using more tools and household appliances, and, as their power has increased, so has the noise. In fact, noise levels in apartments and private dwellings, particularly in kitchen areas, are beginning to approach those in factories. The typical American citizen is constantly bombarded with noise -- on the job, in his home, and at play. No longer confined solely to congested urban areas, noise is now spreading to suburban and rural areas that were relatively quiet just a few years ago. An average community now has noise levels in excess of the 70 decibels scientists now tend to designate as the minimum threshold for potential hearing loss. Clearly, strong comprehensive action is needed to protect the public health and welfare from this increasing noise.

Accordingly, the President has recently signed into law the first comprehensive noise control legislation in this country's history. This new law, based upon the President's proposal to Congress in February of 1971, gives EPA that authority. For the first time, the Federal government is empowered to establish emission standards for all noise sources the Administrator of EPA determines to be a threat to the public health and welfare. EPA will require labeling of products to allow the consumer an informed choice as to that product's noise generation characteristics. Further, EPA is mandated to coordinate all existing Federal noise programs to ensure a maximum Federal effort toward a quieter environment. Aircraft noise will receive special attention in this coordination role through an EPA study culminating in the recommendation of proposed regulations to the Federal Aviation Administration. FAA, after public hearings and further public consultation with EPA, may then either adopt, modify, or reject the proposed regulations consistent with FAA's mission to ensure the highest degree of safety in air commerce. Also included in the new act is a strong citizen suit provision identical to such provisions in the Clean Air Act.

The Congress has responded to this Administration's request for strong noise legislation in a positive and forceful manner. EPA will now respond to that mandate in a similar spirit.

William D. Ruckelshaus
Administrator
United States Environmental Protection Agency

SHORT TITLE

- Sec. 1 This Act may be cited as the Noise Control Act of 1972.

FINDINGS & POLICY

- Sec. 2 Findings. That inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population; and that Federal action is essential to deal with major noise sources in commerce, and other products, control of which require national uniformity of treatment.

Policy. It is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare by: effectively coordinating Federal research and activities in noise control; establishing Federal noise emission standards for products distributed in commerce; and providing information to the public respecting the noise emission and noise reduction characteristics of such products.

DEFINITIONS

- Sec. 3 Defines "Administrator," "person," "product," "ultimate purchaser," "new product," "manufacturer," "commerce," "state," "Federal agency," and "environmental noise."

FEDERAL PROGRAMS

- Sec. 4 (1) Directs Federal agencies to administer programs in a manner to reduce noise consistent with their authorities; (2) requires each Federal agency to comply with Federal, State, interstate and local requirements for noise control unless exempted by the President; (3) requires EPA to coordinate all Federal programs relating to noise research and noise control; (4) requires that other agencies consult EPA before prescribing noise regulations and allows EPA to require public review of any regulations thought insufficient to protect public health and welfare to the extent EPA thinks feasible; (5) requires EPA to periodically report on the status and progress of Federal noise control activities.

IDENTIFICATION OF MAJOR NOISE SOURCES, NOISE CRITERIA
AND CONTROL TECHNOLOGY

- Sec. 5 (1) requires EPA to publish criteria which reflect the kind and extent of all identifiable effects on the public health or welfare resulting from differing quantities and qualities of noise (within 9 months); (2) requires EPA to publish information on levels of environmental noise which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety (within 12 months); (3) requires EPA to publish a report identifying major sources of noise, and giving information on techniques for control of noise (within 18 months).

NOISE EMISSION STANDARDS FOR PRODUCTS DISTRIBUTED
IN COMMERCE

- Sec. 6 EPA is given authority to prescribe and amend standards limiting noise generation characteristics for any product or class of products which has been identified as a major source of noise and which falls in the following categories: construction equipment, transportation equipment (including recreational vehicles), any motor or engine, and electrical or electronic equipment. EPA may issue regulation for products in other categories if it is necessary to protect the public health or welfare. The standards must be ".... based on criteria published under Section 5," and "requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of such product (alone or in combination with other noise sources), the degree of noise reduction achievable through application of the best available technology, and the cost of compliance." The manufacturer of regulated products must warrant that its product is designed and built so as to conform at the time of sale with such regulation. The cost of this warranty cannot be passed on by the manufacturer. States and political subdivisions are prohibited from setting noise emission levels different from those promulgated by EPA, but remain able to regulate use, operation or movement of products.

AIRCRAFT NOISE STANDARDS

- Sec. 7 (1) EPA is required to do a study of: the adequacy of FAA flight and operational noise controls; adequacy of present aircraft noise emissions standards (including recommendations on retrofit); implications of achieving levels of cumulative noise exposure around airports; and additional measures available to airport operators and local governments to control noise. (2) The FAA's power to prescribe and amend aircraft noise measurement and noise emission regulations under Section 611 of the FAA Act of 1958 is preserved. However, EPA is required to submit recommendations for regulations to FAA which EPA feels necessary to protect the public health and welfare. A detailed process for public dissemination of information regarding FAA's action on EPA's recommendations is specified.

LABELING

- Sec. 8 For any product which (a) emits noise capable of adversely affecting the public health or welfare, or (b) is sold wholly or in part on the basis of its effectiveness in reducing noise, the EPA must require the manufacturer of such product to give notice of the noise level or its effectiveness in reducing noise to the consumer. EPA's regulations must indicate the form of such notice and the method and unit of measurement must be prescribed.

IMPORTS

- Sec. 9 The Secretary of the Treasury shall, in consultation with EPA, issue regulations to carry out the provisions of this Act with respect to new products imported or offered for importation.

PROHIBITED ACTS

- Sec. 10 Manufacturers are prohibited from distributing products which do not conform with an applicable labeling or noise emission regulation after the effective date of such applicable regulation. All persons are prohibited from removing a noise reduction device from a product in compliance with a noise emission regulation and from removing a label before sale to the ultimate purchaser. All persons are prohibited

from refusing to comply with an order of the Administrator specifying relief under Sec. 11 (d) or refusing to make required information available to the Administrator, or importing a product in violation of the import regulations of Sec. 9. Under certain circumstances, the Administrator may exempt certain products from compliance for a specified period of time.

ENFORCEMENT

- Sec. 11 Manufacturers or importers of non-conforming or mis-labeled products are subject to fines of up to \$25,000 per day for each violation and to imprisonment of up to 1 year. The penalties may be doubled for subsequent convictions. The Administrator may issue orders specifying such relief as he deems necessary to protect the public health and welfare. The District Courts of the United States have jurisdiction to restrain violations of the act.

CITIZEN SUITS

- Sec. 12 Any person may commence a civil action on his own behalf against any person (including the United States) for violation of this act or against the Administrator of EPA or FAA for failure to perform any non-discretionary duty under this act. No action may be commenced until 60 days after notice of violation or if the Administrator is already diligently prosecuting a civil action. The Administrator may intervene as a matter of right in costs of litigation (including reasonable attorney and expert witness fees) to any party. Nothing in the section restricts any right which any person may have under any other statute or the common law to enforce a noise control requirement.

RECORDS, REPORTS AND INFORMATION

- Sec. 13 Every manufacturer of a product for which standards or labeling requirements have been prescribed must maintain records, make reports and provide information (including

supplying products coming off the assembly line for testing) as may reasonably be required to determine compliance, and must permit access to such information and copying of such records. Information obtained relating to trade secrets under Section 1905 of Title 1, USC, will be confidential, but can be confidentially disclosed to other Federal officers, or disclosed when relevant to any proceeding under the Act. Such information cannot be withheld from Congress. Violation of this section is punishable by fine of up to \$10,000 and imprisonment of up to 6 months.

RESEARCH, TECHNICAL ASSISTANCE AND PUBLIC INFORMATION

- Sec. 14 EPA is authorized to: (1) conduct and finance research on psychological and physiological effects on humans, on the effects of noise on animals, wildlife and property, and to determine acceptable levels of noise, development of improved methods for measurement and monitoring of noise, and determination of the most effective and practicable means of controlling noise (2) provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards including advice on training of personnel and on selection and operation of noise-abatement equipment, and preparation of model legislation (3) disseminate public information on effects, acceptable levels and techniques for measurement and control of noise.

DEVELOPMENT OF LOW-NOISE EMISSION PRODUCTS

- Sec. 15 Provides for Federal procurement of and public notice about products certified as "low-noise-emission products" (defined as: any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under Sec. 0 at the time of procurement to that type of product). The Administrator is allowed to establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify. Once an application for certification is received and the product is determined to be a low-noise

emission product, the Administrator must certify the product as such if he determines that the product is a suitable substitute for a type of product at that time in use by agencies of the Federal government. Various instructions as to when the Federal government is required to purchase such products and when the EPA is required to publish information about its determinations are given.

JUDICIAL REVIEW: WITNESSES

- Sec. 16 The U.S. Court of Appeals (D.C. Circuit) is given jurisdiction over petitions for review of the Administrator's actions in promulgating regulations under Sections 6, 8, 17 and 18, including the power to require the Administrator to hear new evidence not available at the time of the Administrator's action. However, no stay of an agency action may be granted unless the party seeking review (1) is likely to prevail on the merits and (2) will suffer irreparable harm. The Administrator may issue subpoenas for the attendance and testimony of witnesses and production of documents, and U.S. District Courts have power to require such person to appear.

RAILROAD NOISE EMISSION STANDARDS

- Sec. 17 After consultation with the Department of Transportation, EPA is required to promulgate regulations for surface carriers engaged in interstate commerce, including regulations governing noise emission from the operation of equipment and facilities of such carriers. The effective date for such regulations must permit the development and application of the requisite technology. The Secretary of Transportation is charged with the responsibility of assuring compliance with EPA's regulations. State and local governments are prohibited from establishing operational noise emission limits different from applicable federal standards, but the Administrator may allow a different standard if he determines in consultation with the Secretary of Transportation that local conditions necessitate such different regulations.

MOTOR CARRIER NOISE EMISSION STANDARDS

- Sec. 18 The provisions of this section are nearly identical to Sec. 17 except that they apply to "a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle as those terms are defined in the Interstate Commerce Act (49 U.S.C. 303(a))."

AUTHORIZATION OF APPROPRIATIONS

- Sec. 19 There is authorized to be appropriated to carry out this Act (other than Sec. 15) \$3,000,000 for fiscal year 1973; \$6,000,000 for fiscal year 1974 and \$12,000,000 for fiscal year 1975.

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