THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Legal Compilation

Statutes and Legislative History
Executive Orders
Regulations
Guidelines and Reports

Supplement I
Volume V
Noise

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JANUARY 1973

WILLIAM D. RUCKELSHAUS
Administrator

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FOREWORD

No nation in the history of the world has ever developed as fast as the United States. Starting virtually from scratch, we created in one century the world's first industrial society on a continental scale. Since we derived such great benefits from the exploitation of natural resources, it is not surprising that we equated all forms of growth with progress.

Today, however, there is a new mood in this country. We are disposed to look more carefully at our past assumptions, including those which brought us wealth, comfort, and convenience. We have learned a great deal, especially in the last decade. We have acquired a more comprehensive perception of the problems of modern society and how persistent and intractable they can be. But these problems are not beyond solution. They give way before ingenuity, perseverance, and mutual cooperation.

I think this nation is well on its way to a new era of environmental stewardship. We are beginning to realize that the earth itself, the whole biosphere, is an environment from which we cannot insulate ourselves. We are learning that while we may alter that environment, we must also be prepared to protect it and to foresee the full effects of our actions on tomorrow's world.

When future historians look back on this period, they should say it was an age of enlightenment when man first understood that his limitless capacity to innovate always takes place within nature, not outside it, and that preserving the life systems of the earth is his most sacred task.

It will take decades of heavy investment, generations of strenuous effort, and many hard years of learning to live with new habits and imperatives. But in the end we shall restore the earth—not perhaps to what it was in the past, for the past is unrecoverable— but to a new condition of wholeness, where man may live in peace.

Such a world is ours for the making.

William D. Ruckelshaus
Administrator
U.S. Environmental Protection Agency

PREFACE

Reorganization Plan No. 3 of 1970 transferred 15 governmental units with their functions and legal authority to create the U.S. Environmental Protection Agency. Since only the major laws were cited in the Plan, the Administrator, William D. Ruckelshaus, requested that a compilation of EPA legal authority be researched and published.

The publication has the primary function of providing a working document for the Agency itself. Secondarily, it will serve as a research tool for the public.

This particular volume, which constitutes the first supplement, is a product of a permanent office in the Office of Legislation, established to perform the updating function.

It is the hope of EPA that this set will assist in the awesome task of developing a better environment.

MARY LANE REED WARD GENTRY, J.D.
Assistant Director, Office of Field Operations
Office of Legislation
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2—EPA

INSTRUCTIONS

This new publication is intended to do two things. It is designed first to update the EPA Legal Compilation, which first appeared in 1973. But it is also intended to stand alone as a collection and presentation in one document of the text and legislative history of the *major* environmental legislation enacted during the Second Session of the 92d Congress.

In the first instance, for those using this publication in conjunction with the Compilation, the point system employed there will be continued here. Although in that work at each solely numerical point (1.1, 1.2, etc.) the complete then current text of the pertinent statutes was provided, in this publication ONLY the *public law text* of the latest amendment will be used because the new legislation has not yet been codified. The public law texts appear at the appropriate numerical-alphabetical point (1.32a, 1.2r, etc.) of the legislative history.

For those using this publication as an independent document, the Table of Contents has a listing of the materials included by specific environmental area.

Finally, this work is intended for general legal reference and information, not as one which may be formally cited in the legal sense, and the author disclaims responsibility for liability arising from its use. In this connection, it should be noted that the many quotations from the Congressional Record for the 92nd Congress were taken from the "unofficial" daily version which is subject to subsequent modification by the Members prior to the publication of the final official record, not available at this time.

From the outset, our concern was to make this important material available to the public as quickly as possible and we recognized that in order to accomplish this, we would have to diminish its official character to some extent. We think that it was a fair trade-off.

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1.4 NOISE CONTROL ACT

42 U.S.C. § 4901 et seq.

(Since the Act has not been codified, see "1.4a" for text)

1.4a NOISE CONTROL ACT OF 1972

October 27, 1972, P.L. 92–574, 86 Stat. 1234

To control the emission of noise detrimental to the human environment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Noise Control Act of 1972".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual, corporation, partnership, or association, and (except as provided in sections 11(e) and 12(a)) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act of 1958; or

(B)(i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 6 or section 8 which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products.

(7) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

(11) The term "environmental noise" means the intensity, duration, and the character of sounds from all sources.

FEDERAL PROGRAMS

SEC. 4. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 2(b).

(b) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) having jurisdiction over any property or facility, or

(2) engaged in any activity resulting, or which may result, in the emission of noise,

shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products referred to in section 3(3)(B) of this Act, may be granted from the requirements of sections 6, 17, and 18 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements

of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c)(1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 611 of the Federal Aviation Act of 1958 (as amended by section 7 of this Act) shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise.

IDENTIFICATION OF MAJOR NOISE SOURCES; NOISE CRITERIA AND CONTROL TECHNOLOGY

SEC. 5. (a)(1) The Administrator shall, after consultation with appropriate Federal agencies and within nine months of the date of the enactment of this Act, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(2) The Administrator shall, after consultation with appropriate Federal agencies and within twelve months of the date of the enactment of this Act, publish information on the levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

(b) The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act.

(c) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

(d) Any report (or revision thereof) under subsection (b)(1) identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or information on control techniques shall be announced in the Federal Register, and copies shall be made available to the general public.

NOISE EMISSION STANDARDS FOR PRODUCTS DISTRIBUTED IN COMMERCE

SEC. 6. (a)(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c), for each product—

(A) which is identified (or is part of a class identified) in any report published under section 5(b)(1) as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

(i) Construction equipment.

(ii) Transportation equipment (including recreational vehicles and related equipment).

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

(2)(A) Initial proposed regulations under paragraph (1) shall be published not later than eighteen months after the date of enactment of this Act, and shall apply to any product described in paragraph (1) which is identified (or is a part of a class identified) as a major source of noise in any report published under section 5(b)(1) on or before the date of publication of such initial proposed regulations.

(B) In the case of any product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 5(b)(1) after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) for such product shall be proposed and published by the Administrator not later than eighteen months after such report is published.

(3) After proposed regulations respecting a product have been published under paragraph (2), the Administrator shall, unless in his judgment noise emission standards are not feasible for such product, prescribe regulations, meeting the requirements of subsection (c), for such product—

(A) not earlier than six months after publication of such proposed regulations, and

(B) not later than—

(i) twenty-four months after the date of enactment of this Act, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 5(b)(1) identifying it (or a class of products of which it is a part) as a major source of noise.

(b) The Administrator may publish proposed regulations, meeting the requirements of subsection (c), for any product for which he is not required by subsection (a) to prescribe regulations but for which, in his judgment, noise emission standards are feasible and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c), for such product.

(c)(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 5, is 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 the application of the best available technology, and the cost of compliance. In establishing such a standard for any product, the Administrator shall give appropriate consideration to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966, the Clean Air Act, and the Federal Water Pollution Control Act. Any such noise emission standards shall be a performance standard. In addition, any regulation under subsection (a) or (b) (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to participate in rulemaking in accordance with the first sentence of section 553(c) of title 5, United States Code.

(3) The Administrator may revise any regulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d)(1) On and after the effective date of any regulation prescribed under subsection (a) or (b) of this section, the manufacturer of each new product to which such regulation applies shall warrant to the ultimate purchaser and each subsequent purchaser that such product is designed, built, and equipped so as to conform at the time of sale with such regulation.

(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act.

(e)(1) No State or political subdivision thereof may adopt or enforce—

(A) with respect to any new product for which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such

new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Subject to sections 17 and 18, nothing in this section precludes or denies the right of any State or political subdivision thereof to establish and enforce controls on environmental noise (or one or more sources thereof) through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products.

AIRCRAFT NOISE STANDARDS

SEC. 7. (a) The Administrator, after consultation with appropriate Federal, State, and local agencies and interested persons, shall conduct a study of the (1) adequacy of Federal Aviation Administration flight and operational noise controls; (2) adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phaseout of existing aircraft; (3) implications of identifying and achieving levels of cumulative noise exposure around airports; and (4) additional measures available to airport operators and local governments to control aircraft noise. He shall report on such study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committees on Commerce and Public Works of the Senate within nine months after the date of the enactment of this Act.

(b) Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) is amended to read as follows:

"CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 611. (a) For purposes of this section:

"(1) The term 'FAA' means Administrator of the Federal Aviation Administration.

"(2) The term 'EPA' means the Administrator of the Environmental Protection Agency.

"(b) (1) In order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that safety in air commerce or air transportation requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

"(2) The FAA shall not issue an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d).

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"(c)(1) Not earlier than the date of submission of the report required by section 7(a) of the Noise Control Act of 1972, EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as EPA determines is necessary to protect the public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentations of data, views, and arguments. Within a reasonable time after the conclusion of such hearing and after consultation with EPA, the FAA shall—

"(A) in accordance with subsection (b), prescribe regulations (i) substantially as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or

"(B) publish in the Federal Register a notice that it is not prescribing any regulation in response to EPA's submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations.

"(2) If EPA has reason to believe that the FAA's action with respect to a regulation proposed by EPA under paragraph (1)(A)(ii) or (1)(B) of this subsection does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations listed in subsection (d) of this section, EPA shall consult with the FAA and may request the FAA to review, and report to EPA on, the advisability of prescribing the regulation originally proposed by EPA. Any such request shall be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action of the FAA under paragraph (1) of this subsection; and shall specify whether (and where) such statements are available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

"(3) If, in the case of a matter described in paragraph (2) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA indicates that the proposed regulation originally submitted by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the action actually taken by the FAA in response to EPA's proposed regulations, and (B) EPA's proposed regulations.

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"(d) In prescribing and amending standards and regulations under this section, the FAA shall—

"(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

"(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

"(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

"(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

"(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

"(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation."

(c) All—

(1) standards, rules, and regulations prescribed under section 611 of the Federal Aviation Act of 1958, and

(2) exemptions, granted under any provision of the Federal Aviation Act of 1958, with respect to such standards, rules, and regulations,

which are in effect on the date of the enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator of the Federal Aviation Administration in the exercise of any authority vested in him, by a court of competent jurisdiction, or by operation of law.

LABELING

SEC. 8. (a) The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

(b) For each product (or class thereof) designated under subsection (a) the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Sections 6(c)(2) shall apply to the prescribing of any regulation under this section.

(c) This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

IMPORTS

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

PROHIBITED ACTS

SEC. 10. (a) Except as otherwise provided in subsection (b), the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 6 which is applicable to such product, except in conformity with such regulation.

(2) (A) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 6, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 8(b) (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 8(b), prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 9 which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 11(d) or 13(a) or regulations prescribed under section 13(a), 17, or 18.

(b) (1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

ENFORCEMENT

SEC. 11. (a) Any person who willfully or knowingly violates paragraph (1), (3), (5), or (6) of subsection (a) of section 10 of this Act shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(b) For the purpose of this section, each day of violation of any paragraph of section 10(a) shall constitute a separate violation of that section.

(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 10(a) of this Act.

(d)(1) Whenever any person is in violation of section 10(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5 of the United States Code.

(e) The term "person," as used in this section, does not include a department, agency, or instrumentality of the United States.

CITIZEN SUITS

SEC. 12. (a) Except as provided in subsection (b), any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e)), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise control requirement under such section 611) and (ii) to any alleged violator of such requirement, or

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or

(2) under subsection (a)(2) prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

(c) In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may intervene as a matter of right. In an action under this section respecting a noise control requirement under section 611 of the Federal Aviation Act of 1958,

1.4a(1) HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

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the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(f) For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 10(a), or a standard, rule, or regulation issued under section 17 or 18 of this Act or under section 611 of the Federal Aviation Act of 1958.

RECORDS, REPORTS, AND INFORMATION

SEC. 13. (a) Each manufacturer of a product to which regulations under section 6 or section 8 apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act,

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b)(1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this Act.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(c) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

RESEARCH, TECHNICAL ASSISTANCE, AND PUBLIC INFORMATION

SEC. 14. In furtherance of his responsibilities under this Act and to complement, as necessary, the noise-research programs of other Federal agencies, the Administrator is authorized to:

(1) Conduct research, and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

(A) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(C) determination of the most effective and practicable means of controlling noise emission.

(2) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including but not limited to—

(A) advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

(B) preparation of model State or local legislation for noise control.

(3) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

SEC. 15. (a) For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 6 at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b) (1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such

member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

(c)(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise-emission levels exceed the levels on which certifi-

cation under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this Act.

JUDICIAL REVIEW; WITNESSES

SEC. 16. (a) A petition for review of action of the Administrator of the Environmental Protection Agency in promulgating any standard or regulation under section 6, 17, or 18 of this Act or any labeling regulation under section 8 of this Act may be filed only in the United States Court of Appeals for the District of Columbia Circuit, and a petition for review of action of the Administrator of the Federal Aviation Administration in promulgating any standard or regulation under section 611 of the Federal Aviation Act of 1958 may be filed only in such court. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of either Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(b) If a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator of such Agency or Administration (as the case may be), the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before such Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. Such Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(c) With respect to relief pending review of an action by either Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

(d) For the purpose of obtaining information to carry out this Act, the Administrator of the Environmental Protection Agency may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person,

shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

RAILROAD NOISE EMISSION STANDARDS

SEC. 17. (a)(1) Within nine months after the date of enactment of this Act, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 6 of this Act.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised, from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

(c)(1) Subject to paragraph (2) but notwithstanding any other provision of this Act, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad, no State or political subdivision thereof may adopt or enforce any standard applicable to noise emissions resulting from the operation of the same equipment or facility of such carrier unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) The terms "carrier" and "railroad" as used in this section shall have the same meaning as such terms have under the first section of the Act of February 17, 1911 (45 U.S.C. 22).

MOTOR CARRIER NOISE EMISSION STANDARDS

SEC. 18. (a)(1) Within nine months after the date of enactment of this Act, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 6 of this Act.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

(c)(1) Subject to paragraph (2) of this subsection but notwithstanding any other provision of this Act, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any motor carrier engaged in interstate commerce, no State or political subdivision thereof may adopt or enforce any standard applicable to the same operation of such motor carrier, unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) For purposes of this section, the term "motor carrier" includes 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 by paragraphs (14), (15), and (17) of section 203(a) of 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 section 15) $3,000,000 for the fiscal year ending June 30, 1973; $6,000,000 for the fiscal year ending June 30, 1974; and $12,000,000 for the fiscal year ending June 30, 1975.

Approved October 27, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-842 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 92-1160 accompanying S. 3342 (Comm. on Public Works).
CONGRESSIONAL RECORD, Vol. 118 (1972):
Feb. 29, considered and passed House.
Oct. 12, 13, considered and passed Senate, amended, in lieu of S. 3342.
Oct. 18, House concurred in Senate amendment, with an amendment; Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 8, No. 44:
Oct. 28, Presidential statement.

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1.4A(1) HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

H.R. REP. No. 92-842, 92d Cong., 2d Sess. (1972)

NOISE CONTROL ACT OF 1972

FEBRUARY 19, 1972.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 11021]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof a substitute which appears in the reported bill in italic type.

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Summary of Legislation

Purpose

The objective of the Noise Control Act of 1972, ". . . to promote an environment for all Americans free from noise that jeopardizes their health or welfare . . ." (sec. 2(b)) is to be achieved in the following manner:

Coordination of Federal noise control and research activities

(1) by requiring all Federal agencies to promote this objective in carrying out the programs under their control (sec. 4(a));

(2) by requiring the Administrator of the Environmental Protection Agency to coordinate the programs of all Federal agencies relating to noise research and noise control (sec. 4(b)(1));

(3) by requiring each Federal agency (except the Federal Aviation Administration to which special provisions apply) to consult with the Administrator when prescribing regulations respecting noise, and by authorizing the Administrator to request any such agency to review noise control regulations when he has reason to believe that such regulations do not protect the public health and welfare to the extent he believes to be required and feasible (sec. 4(b)(2));

(4) by requiring the Administrator to report from time to time on the status and progress of Federal noise research and control activities (sec. 4(b)(3));

Identification of major noise sources and publication of noise control information

(5) by requiring the Administrator to develop and publish noise criteria identifying the effects on health and welfare of differing quantities and qualities of noise (sec. 5(a));

(6) by requiring the Administrator to identify, and publish a compilation of products which constitute major noise sources (sec. 5(b));

Noise emission standards for new products

(7) by requiring the Administrator to establish noise emission standards for new products in the following four categories, if they have been identified as major noise sources, and if noise emission standards are feasible:

I. Construction equipment
II. Transportation equipment
III. Motors or engines, or equipment of which motors and engines are integral parts
IV. Electrical or electronic equipment

and by providing detailed time schedules for the establishment of such standards (sec. 6(a));

(8) by authorizing the Administrator to establish noise emission standards for other new products for which such standards are feasible and requisite to protect the public health and welfare (sec. 6(b));

State and local noise control of use of any product

(9) by leaving intact State or local authority to control the use, operation or movement of any product (sec. 6(d));

Interagency coordination with regard to aircraft noise standards

(10) by directing the Administrator of the Federal Aviation Administration to consult with the Administrator of the Environmental Protection Agency in prescribing noise control standards and regulations under the applicable provisions of the Federal Aviation Act; by authorizing the Administrator of the Environmental Protection Agency to request the Administrator of the Federal Aviation Administration to review any standard or regulation which the Administrator of the Environmental Protection Agency has reason to believe does not adequately protect the public from aircraft noise or sonic boom, and to submit a report to the Administrator of the Environmental Protection Agency on the results of such review; and by prohibiting the Administrator of the Federal Aviation Administration from issuing an original type certificate for any aircraft for which substantial noise abatement can be achieved through regulations, unless he prescribes noise or sonic boom regulations applicable to the aircraft (sec. 7);

Informative labeling of new products

(11) by requiring the Administrator to issue regulations requiring informative labeling (or other suitable methods of informing prospective users) with respect to any product (or class thereof) which emits noise capable of adversely affecting the public health or welfare, or which is sold wholly or in part on the basis of its effectiveness in reducing noise (sec. 8);

Imports

(12) by requiring the Secretary of the Treasury in consultation with the Administrator to carry out the provisions of this legislation with regard to imports (sec. 9);

Enforcement

(13) by authorizing the Administrator (and a State under an agreement with the Administrator) to assess and to collect in a civil action, civil penalties of not more than $25,000 for each violation of any of the prohibitions of this legislation relating to the sale of any new product which does not conform with a noise emission standard; the removal or rendering inoperative of any device incorporated in any product in compliance with such standard; the use thereafter of any such product; the removal prior to sale to an ultimate purchaser of any informative labeling attached to any new product; the importation of any new product in violation of this legislation; or the failure to maintain records or furnish any report or information required by this legislation (sections 10 and 11);

Citizen suits

(14) by authorizing the institution of a citizen suit against any violator of a noise control requirement under the bill or against the Administrator of the Environmental Protection Agency or the Administrator of the Federal Aviation Administration for an alleged failure to perform any act under this legislation which is not discretionary with such Administrator (sec. 12);

Records, reports, and information

(15) by requiring manufacturers to maintain records or to furnish reports and information reasonably required by the Administrator to

secure compliance with this legislation, and by requiring manufacturers to make new products available for testing by the Administrator (sec. 13);

Research

(16) by authorizing the Administrator to conduct research or to finance research by others to determine the effects, measurement and control of noise as well as acceptable levels of noise; to provide technical assistance to States and local governments in training enforcement personnel and in preparing model State or local noise control legislation (sec. 14);

Low-noise-emission products

(17) by directing the Administrator to determine which products qualify as low noise emission products and to certify such products as suitable for use as substitutes for other products in use at that time by federal agencies, and by directing such agencies to use any such certified product if the Administrator of General Services determines that the procurement costs of such certified product are not more than 125 per centum of the retail price of the least expensive type of product for which such certified product is to serve as a substitute; and by authorizing $1 million for fiscal year 1972 and $2 million for each of the two succeeding fiscal years for paying the additional costs of such certified products (sec. 15);

Authorization of appropriations

(18) by authorizing for purposes of carrying out the provisions of this legislation the appropriation of the following sums: $3 million for fiscal year 1972; $6 million for fiscal year 1973; and $12 million for fiscal year 1974 (sec. 16).

Hearings on the Legislation

Your Committee, acting through its Subcommittee on Public Health and Environment, conducted a series of hearings on the problems of noise pollution. Hearings focused on the Administration bill, H.R. 5275, which was introduced on March 1, 1971, by Chairman Staggers and Congressman Springer, and several other bills introduced by various Members of Congress which would provide for a comprehensive program for the control of noise. Hearings were held on June 16, 17, 22, 23, and 24, 1971, and testimony was received from a variety of witnesses representing government, industry, and professions concerned with noise and its effects on human health and welfare. The Committee also received extensive written material involving the subject of noise abatement as an aspect of environmental quality.

Following the hearings and Subcommittee consideration, a clean bill, H.R. 11021, was introduced by Subcommittee Chairman Rogers and seven other members of the Subcommittee. On February 8, 1972 the bill was ordered reported by voice vote.

Report on Noise Required by Title IV of the Clean Air Act

Title IV of the Clean Air Act (the "Noise Pollution and Abatement Act of 1970") required the Environmental Protection Agency to undertake a complete investigation of noise and its effect on the public health and welfare, to identify and classify the sources of noise,

and to determine projected growth levels of the problem to the year 2000. The Agency was required to undertake research, conduct public hearings, and to report to the President and Congress within one year the results of such investigations along with recommendations as to legislation or any other action. The EPA "Report to the President and the Congress on Noise" was submitted to the Congress on January 26, 1972. In the opinion of your Committee, the report substantiates the urgent need for a coordinated Federal, State and local effort to control and abate noise in order to protect the public health and welfare and demonstrates the need for legislation such as that recommended in the reported bill.

Major Issues Presented

The Committee in examining the proposed legislation for noise control, was concerned with the following major issues:

(1) The nature and extent of noise as an element of environmental concern.

(2) The adequacy of technology to deal with the problem of noise abatement.

(3) The extent and effectiveness of present Federal programs for noise control and the cost of noise control.

(4) The responsibilities of the Federal Government, the States and their political subdivisions in abating and controlling noise.

(5) The proper roles of the Environmental Protection Agency and the Federal Aviation Administration with respect to aircraft noise.

The Nature and Extent of Noise as an Element of Environmental Concern

Effects of noise pollution

As brought out by the witnesses testifying before the Committee, and as described in detail in the EPA "Report to the President and Congress on Noise", the effects of noise on people takes many forms, and can be psysiological or psychological in nature. These effects include permanent hearing loss, interference with speech communication, stress reactions which could have significant long term health implications, interference with communication and disturbance of sleep. Moreover, noise may have sociological impacts within families and in communities. In addition, it has been demonstrated that acoustical energy can cause damage to buildings and structures.

The particular effects which may occur as a result of a given noise environment are a function of the intensity of the noise and the total exposure time. For example, except in the case of severe acoustic trauma (such as an exposure to the sound from an explosion) only daily exposure to a very high noise intensity for several hours over a period of months will cause a permanent hearing loss. Much lower noise intensities and brief exposure periods can and do produce irritation and annoyance effects.

The testimony of Dr. David Lipscomb, Director of the Noise Study Laboratory, University of Tennessee, concerning the implications of non-occupational noise as a hazard to the health and welfare of the population of the nation was especially disturbing to the Committee.

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Dr. Lipscomb presented to the Committee certain data obtained during a four-year research study by the noise laboratory which indicated a trend toward an inordinately high prevalence of high frequency hearing reductions in young persons. For example, a survey of 3000 freshmen between the ages of 16 and 21 entering the University of Tennessee in the Fall of 1968 indicated that 32.9 percent experienced loss of high frequency hearing acuity. To confirm that striking finding, a portion of the incoming class was screened for hearing in the Fall of 1969. The second survey produced an even more striking finding; it yielded an incidence indication of 60.7 percent. Most of these hearing disorders probably were attributable to exposure to music played at intense levels. This study clearly indicated to the Committee that hearing acuity of young persons is being reduced many years before such reductions should be expected. Studies cited in the Agency's Report to Congress verify that the University of Tennessee study did not depict a localized phenomenon. Indeed, there is ample evidence that the current population of young persons will have much more serious hearing problems in their middle years than the present population.

The number of citizens affected by noise pollution

According to the Environmental Protection Agency, as many as 44 million persons in the United States have the utility of their dwellings adversely affected by noise from traffic and aircraft, and 21 million persons are similarly affected by noise associated with construction activity. 40 million persons are exposed to noise potentially capable of producing hearing impairment due to the operation of noisy devices and the number of such devices and the intensity of exposure is steadily rising. Although obviously these figures are not additive, noise appears to affect to a measurable degree of impact at least 80 million persons or approximately 40 percent of the present population of the United States. Of that number, roughly one-half are risking potential health hazards in terms of long duration exposures resulting in hearing impairment.

There is a long history of occupational noise causing various degrees of hearing impairment in some of the working population. Reports available to the Committee indicate that the number of persons engaged in occupations in which there exists a definite risk of hearing impairment may be as high as 16 million. The legal structure for the protection of workers now exists through the provisions of the Occupational Health and Safety Act and the Coal Mine Safety and Health Act. Although it has been estimated that nonoccupational noise hearing impairment of sufficient severity to require the use of a hearing aid for adequate comprehension of speech affects almost 3 million persons in the United States at the present time, these persons receive virtually no protection from such noise by federal law.

Taking into account the growth and numbers of sources of noise and the increase in energy associated therewith, residual noise levels in urban areas is predicted to rise from 46 dBA to 50 dBA by the year 2000, according to EPA reports. Of more concern is the fact that without more vigorous control methods, the acoustical energy disseminated into the environment from highway vehicles alone will double by the year 2000. Moreover, the number of person hours of exposure to hearing impairment risks from home appliances will increase approximately 2.25 times the 1970 exposures.

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The Committee notes that most of the information relating to noise exposures is concerned with specific sources rather than typical cumulative exposures, to which urban and suburban dwellers commonly are exposed. There is a need for much greater effort to determine the magnitude and extent of such exposures and the Committee expects the EPA to promote studies on this subject and consider development of methods of uniform measurement of the impact of noise on communities. In the opinion of the Committee, there is also a demonstrated need for further research leading to better information on the non auditory physiological and psychological effects of noise, and it is expected that the EPA will conduct and promote research in this area.

The Adequacy of Technology To Deal With the Problem of Noise Abatement and the Cost of Noise Control

The testimony received from a variety of witnesses indicated that most major sources of noise affecting the population of the United States have noise reduction potential that can be attained with application of today's technology. The Administration bill contained no specific time schedules for the development of criteria documents and for the setting of standards. Because of its finding that technology is available for the control within adequate limits of noise emission of the majority of products which constitute major noise sources, the Committee determined that a time limit for the initiation of the standard setting process was proper and indeed essential to prevent the growth of the noise problem beyond reasonable limits. Accordingly, the bill establishes time schedules within which the Administrator of EPA must develop standards. The Committee expects that in considering whether it is feasible to propose standards for noise sources, primary emphasis should be placed on protection of the public health and welfare.

The Committee recognizes that different industries operate according to different general patterns, and regulations may vary as between particular products to take this into account. For example, the automobile industry makes changes in its products on a well-defined model year basis. Therefore, a standard applying to automobiles should include an effective date related to the start-up of a new model year production.

The Committee found that there is a lack of adequate information regarding the cost of noise control for some products and thus included in the bill the requirement that in establishing final standards for noise sources, appropriate consideration must be given to the economic costs of such standards. The Committee also fully expects that adequate consideration be given to the technical capability of industry to meet noise control requirements.

The Extent and Effectiveness of Present Federal Programs for Noise Control

Noise responsibilities are vested in a number of Federal departments and agencies as a collateral activity to their primary missions. Those with significant involvement include the Environmental Protection Agency; the Department of Defense; the Department of Transportation; the Department of Health, Education, and Welfare; the Depart-

ment of Housing and Urban Development; the Department of Labor; and the National Aeronautics and Space Administration. More moderate programs reported to the Committee include those in the Department of Commerce, the Department of Agriculture, the General Services Administration, the Department of Interior, the Postal Service Commission, the National Science Foundation, the Atomic Energy Commission, the Federal Power Commission, the Tennessee Valley Authority, the Treasury Department and the Department of State. In addition, the Council on Environmental Quality has a limited review and coordination authority with respect to noise pollution matters as with all other aspects of environmental quality.

The Committee found that due to the wide divergence of noise abatement programs within the Federal Government, the vast majority of Federal activities relating to noise have been conducted on an *ad hoc* basis. As a result, different systems of measurement of noise impact have been developed. Because of a demonstrated need for a comprehensive Federal effort, the bill places responsibility on the Administrator of the Environmental Protection Agency for the coordination of programs of all departments and agencies, rather than merely promoting such coordination as proposed in the Administration's bill. The Committee anticipates that suitable mechanisms for effective exchange of information will be achieved and expects that greater joint participation of the principal agencies in research efforts and suitable arrangements for joint utilization of facilities for research will be achieved.

Responsibilities of the Federal Government, the States, and Their Political Subdivisions in Abating and Controlling Noise

The Committee was presented with differing views as to the proper roles of the Federal Government, the States and localities in the effort to achieve noise abatement. In the Committee's bill the general concept of Federal preemption for new products for which Federal standards have been established—the concept proposed by the Administration—was retained.

Section 6 of the Committee's bill affects the authority of States and political subdivisions over noise emissions only in one respect: State and local governments are preempted from prescribing noise emission standards for new products to which Federal standards apply, unless their standards are identical to the Federal standards. A similar provision applies to component parts. For products other than new products to which Federal standards apply, State and local governments retain exactly the same authority they would have in absence of the standard setting provisions of the bill. The authority of State and local government to regulate use, operation, or movement of products is not affected at all by the bill. (The preemption provision discussed in this paragraph does not apply to aircraft. See discussion of aircraft noise below.)

Nothing in the bill authorizes or prohibits a State from enacting State law respecting testing procedures. Any testing procedures incorporated into the Federal regulations must, however, be adopted by a State in order for its regulations to be considered identical to Federal regulations.

Localities are not preempted from the use of their well-established powers to engage in zoning, land use planning, curfews and other similar requirements. For example, the recently-enacted Chicago Noise Ordinance provides that heavy equipment for construction may not be used between 9:30 p.m. and 8:00 a.m. within 600 feet of a hospital or residence except for public improvement or public service utility work. The ordinance further provides that the motor of a vehicle in excess of four tons standing on private property and within 150 feet of residential property may not be operated for more than two consecutive minutes unless within a completely enclosed structure. Such local provisions would not be preempted by the Federal Government by virtue of the reported bill.

The Committee gave some consideration to the establishment of a Federal ambient noise standard, but rejected the concept. Establishment of a Federal ambient noise standard would in effect, put the Federal government in the position of establishing land use zoning requirements on the basis of noise—i.e., noise levels to be permitted in residential areas, in business areas, in manufacturing and residential areas; and within those areas for different times of the day or night. It is the Committee's view that this function is one more properly that of the States and their political subdivisions, and that the Federal Government should provide guidance and leadership to the States in undertaking this effort.

The Committee felt it to be desirable to authorize the Administrator of the EPA to enter into agreements with States which would authorize State officials to enforce violations of the Act, and adopted the Administration provision to this effect.

The Proper Roles of the Environmental Protection Agency and the Federal Aviation Administration With Respect to Aircraft Noise

The Committee has established procedures whereby it is intended that a combined EPA–FAA effort will have the effect of protection of the public from excessive aircraft noise, a nationwide complaint. FAA and EPA presently have a formal relationship with respect to emission of air pollutants from aircraft, but no such arrangement exists with respect to noise pollution. The reported bill establishes such a relationship.

The Committee considered very carefully the Administration's request for EPA veto power over standards and regulations prescribed by the FAA Administrator relating to noise characteristics of civilian aircraft. It also weighed proposals which would vest the Administrator of the EPA with the authority to establish such standards. It was determined that neither of these procedures was practical at this time because of the lack of the necessary technical expertise with respect to aircraft design within the EPA. For this reason, the bill retains the authority of the FAA to establish such standards, but adds the requirement that they may not be prescribed before EPA has been consulted concerning the standards.

In addition to providing EPA with a statutory advisory and consultation role with respect to aircraft noise standards, the bill provides that after the date of enactment of this bill original type certificates

for aircraft for which substantial noise abatement can be achieved cannot be issued unless the FAA Administrator has prescribed noise standards which apply to such aircraft.

In order to allow the EPA to assume a meaningful role with respect to aircraft noise, the bill provides further that whenever the Administrator of EPA has reason to believe that an existing or proposed standard or regulation or exemption therefrom or the issuance of an original type certificate does not adequately protect the public, he shall request a review of such action as well as a report on the FAA's findings upon review. EPA's request may be published in the Federal Register and, unless FAA's report indicates an agreement to take specific actions that have been requested by EPA, the FAA report must also appear in the Federal Register. Any such report must identify any environmental impact statements which have been filed under the National Environmental Policy Act of 1969 with respect to such action.

Your Committee believes that these procedures, involving active consultation and advice as well as public disclosure of both agencies' recommendations and actions, will have a substantial effect on aircraft noise abatement. The Committee intends to closely review this new relationship between EPA and FAA. If this relationship does not serve to provide the public with effective reductions in aircraft noise within a reasonable time, further consideration will be given to the problem of excessive aircraft noise and the Committee will take whatever action it considers necessary to achieve adequate reduction.

No provision of the bill is intended to alter in any way the relationship between the authority of the Federal Government and that of State and local governments that existed with respect to matters covered by section 611 of the Federal Aviation Act of 1958 prior to the enactment of the bill.

Estimate of Costs

In compliance with Clause 7 of XIII of the Rules of the House of Representatives, there is set forth below an estimate made by your Committee of the cost which would be incurred in carrying out H.R. 11021 in the current fiscal year and for each of the following fiscal years for which appropriations are authorized by the bill.

ESTIMATE OF COSTS WHICH WOULD BE INCURRED IN CARRYING OUT H.R. 11021 FOR THE AUTHORIZED DURATION OF EACH OF THE PROGRAMS

[In thousands of dollars]

	Section of bill; program	Fiscal year— 1972	1973	1974
4	Federal programs	300	700	800
5	Noise criteria and control technology	1,390	2,100	5,340
6	Noise emission standards for new products	300	1,000	1,400
7	Aircraft noise	100	300	400
8	Labeling	20	90	200
9	Imports	20	40	60
11	Enforcement	20	80	400
13	Records, reports and information	20	40	200
14	(1) research	350	600	1,200
	(2 and 3) Technical assistance and public information	400	900	1,400
15	Development of low-noise-emission products	[1] 80	[1] 150	[1] 600
16	Authorization of appropriations	3,000	6,000	12,000

[1] In addition to program costs, the bill authorizes $1,000,000 for fiscal year 1972 and $2,000,000 for each of the 2 succeeding years for Federal agencies to pay necessary additional amounts for low-noise-emission products.

NOISE CONTROL ACT OF 1972

SECTION-BY-SECTION ANALYSIS

Section 1. Short title and table of contents

This section provides that the bill may be cited as the "Noise Control Act of 1972", and contains a table of contents of the bill.

Section 2. Findings and policy

This section contains a statement of congressional findings and policy. Subsection 2(a) sets forth the following findings: (1) that noise, particularly in urban areas, presents a growing danger to the public health and welfare; (2) that the major sources of noise include a variety of products that move in commerce; and (3) that the Federal Government bears a responsibility to deal with major sources of noise requiring national uniformity of treatment. Subsection 2(b) declares a Federal policy to promote an environment for all Americans free from noise that jeopardizes their health or welfare. This subsection further states that the purpose of the Act is to establish a means for effective coordination of Federal noise control programs, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public of noise emission and noise reduction characteristics of such products.

Section 3. Definitions

Section 3 defines certain terms used in the bill.

(1) "Administrator" means the Administrator of the Environmental Protection Agency (EPA) who is given the primary responsibility for implementing the provisions of the bill.

(2) "Person" is defined as an individual, corporation, partnership, or association, and includes any governmental officer, employee, department, agency, or instrumentality with two exceptions—in the enforcement section (section 11) "person" does not include a Federal department, agency, or instrumentality, and in the citizen suits section (section 12) the United States cannot be a plaintiff and a State cannot be a defendant in cases in which the eleventh amendment of the Constitution applies.

(3) "Product" is defined to include any manufactured article or goods or component thereof, with four general exclusions—(A) "Product" does not include aircraft, aircraft engines, propellers or appliances, as defined in section 101 of the Federal Aviation Act of 1958. (The noise characteristics of aircraft and these aircraft components are already subject to regulation under provisions of that Act, which will continue in effect subject to the amendments in section 7 of the bill, discussed below.) (B) "Product" also excludes any military weapons or equipment designed for combat use. The policy of the Act does dictate, however, that all feasible steps be taken to improve the noise characteristics of these articles. (C) "Product" further excludes equipment designed for use in experimental work performed by the National Aeronautics and Space Administration. (D) To the extent provided by regulation by the Administrator of EPA, the term also excludes certain other experimental equipment used in work performed by or for Federal agencies.

(4) "Ultimate purchaser" is defined as the first person who purchases a product for a use other than resale.

(5) "New product" means a product the title to which has not yet been transferred to an ultimate purchaser, or which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 6 or section 8 which would have been applicable to such product had it been manufactured in the United States.

(6) "Manufacturer" means any person who manufactures or assembles new products or imports new products for resale or who acts on behalf of such a person in the distribution of new products.

(7) "Commerce" is defined as trade, traffic, commerce, or transportation, (A) between a place in a State and any place outside thereof, or (B) which affects trade, traffic, commerce, or transportation described in (A).

(8) "Distribute in commerce" is defined as sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) "State" is defined to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) "Federal agency" is defined as an executive agency (as defined in section 105 of title 5, United States Code), plus the United States Postal Service.

Section 4. Federal programs

Subsection 4(a) authorizes and directs Federal agencies to administer the programs within their control in such a manner as to further the policy of the bill to the fullest extent consistent with their existing authority.

Subsection 4(b) directs the Administrator to coordinate all Federal programs relating to noise research and control, and to assist him in exercising this responsibility, and directs Federal agencies to furnish him with such information about such programs as he may reasonably require. Further, in prescribing regulations each Federal agency must consult with the Administrator. If the Administrator at any time has reason to believe that an existing or proposed standard or regulation respecting noise does not adequately protect the public health and welfare, he may request a review and report on the advisability of revising such standard or regulation. Such a request may be published in the Federal Register, but it must be accompanied by supporting data. The requested review and report must be completed within the time specified by the Administrator, but such specified time may not be less than 90 days. The report must be published in the Federal Register with a detailed statement of the findings and conclusions. With respect to the Federal Aviation Administration, special provisions are provided in section 7, discussed below.

This subsection also directs the Administrator, on the basis of consultation with appropriate Federal agencies, to publish a periodic report covering the noise-related activities of all Federal agencies. It is intended that this report will provide a means for assessing the overall progress of Federal noise control efforts.

Section 5. Noise criteria and control technology

Section 5 gives the Administrator of EPA responsibility to develop and publish basic documents on noise and its control. Subsection 5(a) directs him to develop criteria for noise, taking into account up-to-date scientific knowledge on noise effects. These criteria should make

clear what quantities and qualities of noise are consistent with protection of the public health and welfare under differing circumstances.

Subsection 5(b) directs the Administrator to publish one or more reports identifying products or classes of products which in his judgment are major sources of noise and providing information on techniques for controlling noise from such sources. Available data on technology, costs, and alternative methods of control are to be included. The first report must be published within 18 months after the bill becomes law. Subsection 5(c) directs the Administrator to review and, when appropriate, revise the criteria, noise source, and the control technology documents published under this section. Subsection 5(d) requires publication of major noise source lists in the Federal Register and announcement of each publication or revision of criteria or control technology documents in the Federal Register and release of copies thereof to the public.

Section 6. Noise emission standards for new products distributed in commerce

Under section 6(a), the Administrator is required to propose regulations for each product which is identified in a report under section 5(b)(1) as a major noise source; for which, in his judgment, noise emission standards are feasible; and which falls in one of the following categories:

(i) Construction equipment.

(ii) Transportation equipment (including recreational vehicles and related equipment).

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

The Administrator must publish initial proposed regulations not later than eighteen months after the date of enactment of the bill for any product for which regulations are required and which is identified as a major noise source on or before the date the initial proposed regulations are published. Regulations for a product for which noise regulations are required, and which is identified as a major noise source after the initial proposed noise regulations are published, must be proposed by the Administrator not later than eighteen months after the product is so identified. After proposed regulations have been published respecting a product, the Administrator is required, unless in his judgment noise emission standards are not feasible for the product, to prescribe noise regulations for such product not earlier than 6 months after publication of proposed regulations for the product and not later than 24 months after the enactment of the bill (in the case of a product subject to the initial proposed regulations) or 24 months after the product is identified as a major noise source (in the case of any other product).

Subsection 6(b) provides the Administrator with additional authority to publish proposed regulations establishing noise emission standards for products other than those for which regulations are required above, if in his judgment such standards are feasible and requisite to protect the public health and welfare. Regulations prescribing such standards may not be earlier than six months after the proposed regulations are published.

Any noise regulation prescribed under section 6 (a) or (b) (and any revision thereof) respecting a product must include a noise

emission standard which shall set limits on noise emissions from the product and must be a standard which in the Administrator's judgment, based on criteria published under section 5, is requisite to protect the public health and welfare. In establishing a standard for a product the Administrator must give appropriate consideration to technological feasibility and economic costs, and to standards under other laws designed to safeguard the health and welfare of persons, including any standard under the National Traffic and Motor Vehicle Safety Act of 1966 or the Clean Air Act. Any noise emission standard under this section must be a performance standard.

Noise regulations under this section may contain testing procedures necessary to assure compliance with the noise emission standard in the regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

The Administrator is given broad authority to prescribe regulations appropriate to the type of product regulated, and the noise problem that it creates. Noise emission standards could apply to the performance of the product at the time of manufacture, and compliance could be ascertained by prototype testing or sampling methods, or by other testing procedures. Alternatively, if the Administrator determined that it was appropriate, the standards could apply to the performance of the product over a specified period of operation, and in such a case the Administrator could test prototypes or samples off the assembly line to determine whether the product complied with the standard over the specified period. In addition, the Administrator could issue regulations requiring that the manufacturer recommend in his maintenance instructions procedures to assure that the noise emission performance of the product would pot deteriorate unduly during the period of its use. (It should be noted, however, that under the enforcement provisions of the bill the Administrator has no authority to regulate the use of products which do not conform with his noise emission standards, or to require users to comply with maintenance instructions.)

Section 6(d) prohibits any State or political subdivision from adopting or enforcing any law or regulation which sets a limit on noise emissions from a new product for which a noise regulation has been prescribed by the Administrator under section 6, unless the non-Federal law or regulation is identical to the regulation of the Administrator. In addition, States and political subdivisions are prohibited from adopting or enforcing any law or regulation which sets a limit on noise emissions from any component incorporated by the manufacturer in a new product to which noise regulations under section 6 apply. Section 6(d)(2) makes it clear however that nothing in section 6 will diminish or enhance the rights of any State or political subdivision thereof to control, regulate, or restrict the use, operation, or movement of any product.

Section 7. Aircraft noise standards

Section 7 amends section 611 of the Federal Aviation Act of 1958, which authorizes regulation of the noise characteristics of aircraft and aircraft components, as follows:

New subsections (a), (b), (b)(2), and (c) are added; former subsection (a) is redesignated (b)(1) and amended, and the former subsections (b) and (c) are redesignated as (d) and (e), respectively.

Subsection 611(b)(1) is amended to direct that the Administrator of EPA be consulted for his advice before standards or regulations are promulgated or amended. However, all standards, rules, or regulations (or exceptions thereto) in effect at the date of the enatcment of the bill remain in effect until amended or revoked by subsequent action (including granting an exemption) under the new procedures.

New subsection 611(b)(2) directs that after enactment of this bill the Administrator of the FAA cannot issue an original type certificate for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations unless such standards and regulations have been prescribed and are consistent with the redesignated subsection (d). Under that subsection the Administrator of FAA must consider all relevant available data; consult with orther governmental agencies as he deems appropriate; consider whether such standards or regulations are consistent with the highest degree of safety; consider whether such standards or regulations would be economically reasonable and technologically practicable; and consider the extent to which they will carry out the purposes of section 611.

Under the new subsection 611(c) if the Administrator of the EPA has reason to believe that (1) an existing or proposed standard or regulation of the FAA under Section 611, or exemption therefrom, or (2) the issuance of an original type certificate for which noise abatement standards or regulations have not been prescribed, does not protect the public from aircraft noise consistent with the considerations in redesignated subsection (d) he shall consult with and may request the Administrator of the FAA to review and report on the advisability of revising such standard, regulation or exemption or of the advisability of issuance of a type certificate as the case may be. Such a request, which must include supporting data, may be published in the Federal Register. Except where EPA proposes specific action which the FAA agrees to take, the report of the FAA must be published in the Federal Register within a time specified by the Administrator of the EPA (but he may not specify less than 90 days). The published report must be accompanied by a detailed statement of findings and reasons for the conclusions, must identify any environmental impact statement filed under the National Environmental Policy Act of 1969 which relates to the action, standard or regulation in question, and provide information respecting the availability of such statement. If, in the case of a standard, regulation or exemption therefrom, an environmental impact statement was not required and if the report indicates no revision should be made, then the published report must (if EPA so requests) contain a comparison of the environmental effects of the existing or proposed standard, or regulation or exemption therefrom and the revision proposed by the Administrator of the EPA.

If the action contested by the EPA is the issuance of an original type certificate for which an environmental impact statement was not filed and the FAA report indicates that such a certificate should not be preceded by a noise standard or regulation, the Administrator of the FAA must file a statement similar to an environmental impact statement if requested to do so by the Administrator of the EPA.

(The exemptions to which this section refers include exemptions from noise standards and regulations, granted under section 601(c), and exemptions from section 610(a) granted under section 610(b),

to the extent the exemption under section 610(b) has the effect of relieving foreign airmen or aircraft from compliance with noise standards or regulations under section 611.)

Section 8. Labeling

Section 8 authorizes Federal noise labeling requirements for products distributed in commerce. Subsection 8(a) directs the Administrator by regulation to designate any product (or class thereof) which (1) emits noise capable of adversely affecting the public health and welfare, or (2) is sold at least in part on the basis of its effectiveness in reducing noise. Such products are not limited to those for which standards have been set in section 6 or for which a control technology report has been developed under section 5. For a product so designated, subsection 8(b) directs the Administrator to require by regulation that notice be given to the prospective user of the level of noise emission, or of the effectiveness in reducing noise, as the case may be. Such regulations must specify (1) whether such notice will be affixed to the product or to the outside of its container (or to both) at the time of its sale to the ultimate purchaser or whether such notice will be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used.

Subsection 8(c) leaves intact any existing powers of the States and their political subdivision to regulate product labeling and information respecting products in any way not in conflict with Federal regulations.

This section affords the Administrator wide latitude in the drafting of regulations concerning notification of noise levels. In the case of a mass production product such as automobiles, the Committee bill does not require that each individual must be tested and the specific noise level of such unit be included in a special label on that unit. For example, the Administrator may issue regulations providing for measuring a representative sample of automobiles which will provide information on the maximum amount of noise that is likely to be emitted from any given product.

Section 9. Imports

Section 9 directs the Secretary of the Treasury, in consultation with the Administrator, to issue regulations to carry out the provisions of the bill with respect to new products imported or offered for importation.

Section 10. Prohibited Acts

Section 10 sets forth certain acts which are prohibited by the bill.

Paragraph 10(a)(1) forbids any manufacturer to distribute in commerce any new product manufactured after the effective date of applicable noise regulations under section 6 applicable to the product, except in conformity with such regulations.

Paragraph 10(a)(2) forbids any person (1) to remove or render inoperative, other than for maintenance, repair, or replacement, any device or element of design incorporated into a product in compliance with noise regulations prescribed under section 6, or (2) to use a product after such device or element of design has been removed or rendered inoperative by any person.

Paragraph 10(a)(3) forbids any manufacturer to distribute in commerce any new product manufactured after the effective date of labeling regulations under section 8 that apply to such product, except in conformity with such regulations.

Paragraph 10(a)(4) forbids any person, prior to sale of a product to the ultimate purchaser, to remove a notice affixed to the product or its container pursuant to labeling regulations prescribed under section 8(b).

Paragraph 10(a)(5) forbids the importation into the United States of any products in violation of regulations under section 9, discussed above, relating to imports.

Paragraph 10(a)(6) forbids any person to fail to comply with the provisions of section 13(a), discussed below, respecting required records, reports, and tests.

Subsection 10(b) allows two exceptions to certain of these prohibitions: (1) The Administrator is authorized to exempt for a specified period of time any new product from paragraphs (1), (2), (3), and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security. (2) A product which is manufactured solely for export, and which product (and its container) is visibly labeled or tagged to that effect, is exempted from the prohibitions of paragraphs (1), (2), (3), and (4) of subsection (a), except that such paragraphs shall apply to such a product if it is in fact distributed in commerce for use in any State.

Section 11. Enforcement

Section 11 provides for enforcement of the prohibitions set out in subsection 10(a) of this Act. Paragraph 11(a)(1) establishes a civil penalty of not more than $25,000 for each violation of subsection 10(a). This provision provides for the imposition of the civil penalty (1) by the Administrator and the collection thereof in a civil action brought by the Federal Government in a district court in a proceeding under this section, or (2) by a State, with an agreement under subsection 11(c), discussed below, through civil action in a State court.

Section 11(a)(1)(B) provides that a person who does any act in violation of paragraph (1), (2), or (3) of section 10(a), and who establishes that he did not have reason to know in the exercise of due care that such act was in violation of that paragraph, shall not be subject to a civil penalty under this subsection.

Paragraph 11(a)(2) provides that in any proceeding by the Administrator (or a State) for imposition of a civil penalty, the person charged must be given notice and an opportunity to present his views, and the Administrator (or such State), in determining the penalty or the amount accepted in compromise, must consider the gravity of the violation and the efforts of the person charged to achieve rapid compliance after notification of the violation.

Paragraph 11(a)(3) provides that when a civil penalty is imposed by the Administrator under this subsection, if his determination of liability is made on the record after notice and opportunity for hearing, then in any civil action to collect such civil penalty any findings of facts upon which the above determination is based are conclusive if supported by substantial evidence on the record considered as a whole.

This section gives the Administrator two procedural alternatives for assessing civil penalties. He may assess a penalty by giving the violator notice and an opportunity to present his views, and then by collecting the penalty in a full de novo trial in the court in which

the collection action is brought. Alternatively, he may give the violator a full administrative hearing on the violation, and make his determination of liability on the record after notice and opportunity for hearing. In this case, in any civil action to collect the civil penalty, the Administrator's findings of fact would be reviewed under the substantial evidence rule.

For the purpose of imposing cumulative penalties, each day of violation of any paragraph of section 10(a) will be a separate violation under paragraph 11(a)(4).

Subsection 11(b) authorizes the United States to bring a civil action in the district courts of the United States to restrain any violations of section 10(a) of the bill.

Subsection 11(c) allows the Administrator, when authorized by State law, to make an agreement with a State, with or without reimbursement, authorizing appropriate State officials to impose civil penalties under subsection (a)(1) above, and to bring civil actions in appropriate State courts to impose civil penalties or restrain violations under section 10(a), and the courts of such State may entertain any such civil action. Any civil penalty imposed by a State court is payable one-half to the State and one-half to the Federal Government.

Subsection 11(d) exempts any department, agency, or instrumentality of the United States from the definition of "person" in section 3(2) of this Act.

Section 12. Citizen suits

Section 12 provides a procedure for citizen suits in furtherance of the purpose of the Act to protect the public health and welfare.

Subsection 12(a) allows any person (other than the United States) to commence a civil action on his own behalf, subject to subsection (b), discussed below, against (1) any person (including the United States, and any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is allegedly in violation of any noise control requirement, discussed below under subsection (e), or (2) against the Administrator of EPA or the Administrator of FAA for an alleged failure to carry out non-discretionary duties under their respective authorities. The Federal district courts are given jurisdiction, without regard to the amount in controversy, to restrain the defendant from violating the noise control requirement or to order the defendant Administrator to perform such act or duty, as the case may be.

Subsection 12(b) restricts the above action (1) prior to 60 days after notice to the Administrator of EPA (and of FAA, when appropriate) when there is a violation of a noise control requirement and to any alleged violator of such requirement, or if an Administrator has commenced and is diligently prosecuting a civil action to require such compliance, in which case any person may intervene as a matter of right, or (2) prior to sixty days after notice has been given to the Administrator of EPA (and of FAA, if appropriate), as the defendant, that such action will be commenced. Any notice must be given in accordance with regulations prescribed by the Administrator of EPA.

Subsection 12(c) provides that an Administrator, if not a party, may intervene as a matter of right.

Subsection 12(d) makes it clear that no provision of this section restricts any right of any person to institute proceedings under any

statute or common law to seek enforcement of any noise control requirement or other relief.

Under subsection 12(e) "noise control requirement" is defined for purposes of this section as any provision of section 10(a) (except paragraph (6), relating to recordkeeping, etc.), or a standard rule, or regulation under section 611 of the Federal Aviation Act of 1958.

The provisions in section 12 with respect to citizen suits against violators of noise control requirements are intended to apply only to civil actions to require actual compliance with such a requirement. Actions for the assessment or collection of civil penalties are governed solely by section 11.

Section 13. Records, reports, and information

Subsection 13(a) requires every manufacturer of a product covered by standards under section 6 or labeling regulations under section 8 to (1) maintain such records, make such reports, provide such information, and make such tests as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with the bill, (2) permit, upon request, a representative of the Administrator to view such information and the results of such tests and to copy such records, and (3) make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator to the extent required by the regulations.

Subsection 13(b) provides that all information obtained by the Administrator or his representatives pursuant to the above subsection if it contains or relates to a matter referred to as confidential section 1905 of title 18 of the United States Code, shall be protected from disclosure as provided in that section, except that it may be disclosed to other Federal employees, with whom it must remain confidential or when relevant to the matter in controversy in any proceeding under the proposed act. Such information cannot be withheld from the duly authorized committees of Congress.

Section 14. Research, technical assistance, and public information

Section 14 authorizes the Administrator of EPA, in furtherance of his responsibilities under the bill, to conduct and assist noise research, to provide technical assistance to State and local governments, and to disseminate information on noise to the public.

Section 15. Development of low-noise-emission products

This section encourages the use of present technology and further research to develop low-noise-emission products.

To accomplish this objective the Administrator is directed to determine which products qualify as low-noise-emission products. For a product or class of products to qualify, a proper certification application must be filed under procedures prescribed by regulation and a notice of such application must be published in the Federal Register in order for the Administrator to receive and evaluate comments and make a determination based upon such evaluation and whatever other investigation is necessary, including inspection at a place designated in the regulations. The Administrator has authority to establish a Low-Noise-Emission Advisory Committee to assist him in determining which products qualify. Within ninety days after receipt of a properly filed certification application a determina-

tion must be made as to whether such product qualifies as a low-noise-emission product. Within one hundred and eighty days after a determination that such product qualifies, a decision is to be made as to whether it is suitable as a substitute for a product presently being purchased for use in the Federal Government. Both the determination and the decision are to be published immediately in the Federal Register, including the reasons therefor.

Any product for which a proper certification application has been received, which has been determined to be a low-noise-emission product, and which has been decided to be a suitable substitute for a product presently being purchased will be certified by the Administrator for a period of one year.

Such a certified product will be acquired by purchase for use by the Federal Government in lieu of other products if the Administrator of General Services determines the procurement cost is no more than 125 per centum of the retail price of the least expensive product for which it would be substituted. Statutory price limitations are waived for procuring such products, and authorizations for appropriations for the additional amounts needed for a three-year period are provided.

Tests of products certified and procured by the Federal Government are to be made as the Administrator deems appropriate, and if noise levels exceed those on which certification was based, he must give a written notice to the supplier as well as issue a public notice. The supplier will be given an opportunity to make necessary repairs, adjustments, or replacements.

Procedures to implement this section are to be prescribed within one hundred and eighty days after this Act becomes law.

Section 16. Authorization of appropriations

To carry out this Act (other than section 15) appropriations are authorized for: $3,000,000 for fiscal year 1972; $6,000,000 for fiscal year 1973; and $12,000,000 for fiscal year 1974.

Committee Votes

One record vote was taken during Committee consideration of the bill. The vote was on the following amendment by Mr. Eckhardt, which was defeated by a vote of 3 ayes, 16 nays:

Delete section 6(d)(1).

Agency Reports

Environmental Protection Agency,
Washington, D.C.

Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is in response to your requests for the views of the Environmental Protection Agency on H.R. 5275 (and 5388), 6986, and 6989. We are also including comments on H.R. 923, 6002, 6984, and 6990, which are related proposals.

H.R. 5275 (also 5388) is the Administration's bill to control the generation and transmission of noise detrimental to the human environment.

Under a statement of congressional findings, that bill would provide that inadequately controlled noise presents a growing danger to public

health and welfare, particularly in urban areas; that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other manufactured articles that move in commerce; and that primary responsibility for control of noise in many respects rests with States and local governments but that Federal action is essential to deal with major noise problems which require national uniformity of treatment. It would be the policy of the Federal Government to promote an environment free from noise that jeopardizes public health and welfare.

The Administrator of the Environmental Protection Agency, who would have the primary responsibility for implementing the legislation, would be required to promote the coordination of all Federal programs relating to noise research and control, and all other Federal agencies would be required to furnish him with any information he might reasonably request about their programs. On the basis of regular consultation with appropriate agencies, the Administrator would publish periodic reports on the status and progress of Federal noise abatement activities.

The Administrator would be given authority to develop and publish criteria, after consultation with appropriate Federal Departments and agencies, for noise for the protection of public health and welfare and which would reflect the best scientific knowledge in identifying the effects of differing quantities and qualities of noise. He would be directed to confer with the Secretaries of Health, Education, and Welfare and Labor to assure consistency with criteria and standards for occupational noise exposure under the Occupational Safety and Health Act of 1970. After compilation of initial criteria, the Administrator would compile and publish a report or series of reports to identify major sources of noise and to give information on techniques for the control of such noise which would include available data on technology, costs and alternative methods of control.

The Administrator would also be authorized to prescribe noise standards for construction equipment, transportation equipment, including recreation equipment and equipment powered by internal combustion engines. In prescribing and amending standards, he would have to consider whether it would be economically reasonable, technologically practicable and appropriate for the particular products and whether the particular products could be more effectively controlled through Federal or State or local regulations. The standards so prescribed would be those requisite to protect the public health and welfare. Standards would apply only to those products manufactured subsequent to the effective date of such standards. Any manufacturer of a product covered by a proposed standard would have the right to a public hearing.

Section 611 of the Federal Aviation Act, which authorizes the regulation of noise or sonic boom characteristics of civil aircraft and components thereof, would be amended to provide that standards, rules and regulations prescribed by the Federal Aviation Administration subsequent to enactment of this legislation must be approved by the Administrator of EPA. Further, after the effective date of the proposed legislation, the FAA could not issue a type certificate for any aircraft and components thereof unless he has already prescribed standards, rules and regulations for the noise characteristics.

After the Administrator of EPA prescribed noise-generation standards for any product, no State or subdivision thereof could adopt or

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enforce different standards for such products. However, States or subdivisions would retain the right to control, regulate, or restrict the use, operation or movement of such products.

Under the provisions of this Administration proposal, the Administrator of EPA would also have the authority to designate products or classes of products that (1) produce noise capable of adversely affecting public health and welfare or (2) are sold wholly or in part on the basis of their effectiveness in reducing noise. The Administrator could prescribe noise-generation or noise-reduction labeling requirements for any products so designated to be affixed to the product and the container. These labeling requirements would be far reaching and apply to many categories of equipment beyond those which would be subject to noise emission standards. States or subdivisions would retain the right to regulate product labeling in any way not in conflict with Federal regulations.

Prohibitions included in the proposal would not allow any manufacturer of new products to sell a product after the effective date of labeling regulations promulgated respecting either noise-generating characteristics or noise reduction unless they conformed to such regulations; or any person, prior to the sale to the ultimate purchaser to remove the affixed notice or label. Products imported would be subject to the same general standards and labeling requirements as domestic products. Two exceptions to these prohibitions would be provided—the Administrator could exempt any new product upon such terms and conditions as he might find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations or training, or for reasons of national security; and products intended solely for export.

Every domestic manufacturer covered by the noise regulations or labeling regulations would be required to maintain records, make reports and provide such information as the Administrator may reasonably need to determine that such manufacturer was in compliance with the Act. Information relating to trade secrets would be kept confidential.

In furtherance of his responsibilities, the Administrator would be authorized to conduct and assist noise research, including the investigation of effects on humans, domestic animals, wildlife, and property; development of improved methods and standards for measurement and monitoring of noise in cooperation with the National Bureau of Standards; and determination of most effective and practicable means of controlling noise. He would also provide technical assistance to and prepare model legislation for State and local governments and disseminate information to the public.

H.R. 5275 would provide for civil penalties of not more than $25,000 for each violation of the Act which could be imposed either by the Administrator, after notice and the opportunity for a hearing, or by a court. In determining the amount of the penalty, the Administrator would consider the gravity of the violation and the efforts to achieve compliance after the notice was given. Penalties could be judicially enforced. The Administrator would be able to enlist the aid of any State to enforce the Act either by suing to restrain violations or by imposing civil penalties. Any civil penalty thus imposed would be payable one-half to the State and one-half to the Federal Government.

The Environmental Protection Agency recommends that the Administration proposal, H.R. 5275, be enacted. This legislation would

provide for noise abatement control which is appropriate and adequate at this time. The Administrator of EPA would have flexibility of management which would allow him to incorporate the best managerial techniques and planning and to apply the most suitable and up-to-date technology available to carry out an effective program. States and local governments would retain responsibility to control certain aspects of noise. The Federal Government would provide technical assistance to them and address the major noise problems where national uniformity is needed.

In summary, the functions that EPA, in consultation with other agencies, would carry out under H.R. 5275 are:

1. Prescribe criteria for noise to protect the public health and welfare.

2. Identify and set standards for the following major sources of noise:

(*a*) Construction equipment;

(*b*) Transportation equipment (including recreational vehicles and related equipment); and

(*c*) Equipment powered by internal combustion engines.

3. Establish labeling requirements for designate products or classes of products.

4. Promote the coordination of Federal programs relating to noise research and noise control.

H.R. 923 would provide for the establishment of an Office of Noise Abatement Control within the Department of Health, Education, and Welfare. Such office would be directed to conduct a complete investigation and study of noise and its effects on public health and welfare. The results of the study, together with recommendations for action, would be reported to the President and the Congress within one year of the enactment of this bill. Appropriations of such amounts as would be necessary for the purposes of the bill would be authorized.

EPA fully supports the purposes of H.R. 923, but does not recommend that it be enacted since its provisions closely parallel requirements already enacted into law under the "Noise Pollution and Abatement Act of 1970" (Title IV, P.L. 91–604) which places the responsibility with the Environmental Protection Agency. Actions mandated by the Congress in P.L. 91–604 are now in progress in EPA.

H.R. 6002 would "provide for a comprehensive program for the control of noise" under the direction of the Administrator of the Environmental Protection Agency.

Section 102 would authorize the Administrator to make grants to States for the purposes of providing programs of noise control, research into the causes and effects of noise, programs for the investigation of existing causes of excessive noise and research into new techniques of controlling, preventing, and abating noise with an authorization for appropriations escalating from $5 million for fiscal year 1972 to $13 million for fiscal year *1976*. Allocation and reallocation formulas would be provided for these funds for those States with plans approved under conditions designated.

Section 103 would authorize the Director (rather than the Administrator) to make grants to any public or nonprofit private agency, organization or institution, or to make contracts for the services of any such agency, organization, institution or of any individual to conduct research, provide training, and establish and conduct dem-

onstration projects. Appropriations would be authorized on an escalated basis from $5 million for fiscal year 1972 to $12 million for fiscal year *1975*.

Title II of this proposal would require the Administrator, after consultation with the Secretary of Transportation, to prescribe and amend standards for the measurement of aircraft noise and sonic boom and to prescribe and amend such rules and regulations as may be necessary. Standards, rules and regulations initially issued under this section would include specified restrictions on such things as the dBA level exposure to the nearest residential properties, times of takeoffs in populated areas and ground runup intervals. Civil aircraft would be prohibited from operating at supersonic speeds over land areas of the United States. Injunction proceedings would be provided, and any person violating any standard, rule or regulation under this title would be fined not less than $1,000 for each violation. Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) would be repealed.

Title III would direct the Administrator to prescribe standards, rules and regulations applicable to the emission of noise from motor vehicles sold in commerce which endanger health and welfare. Standards, rules and regulations initially issued would include prohibitions against the operation of motor vehicles where the noise level of the vehicle exceeds specified dBA levels at certain speeds. Injunction proceedings and penalties would be the same as under Title II.

Title IV would direct the Administrator to prescribe standards, rules and regulations applicable to occupational noise exposure. Standards, rules and regulations initially issued would include specified dBA limits throughout the workday and for impact noise during the workday. Injunction proceedings and penalties would again be the same as under Title II. Standards, rules and regulations which would be promulgated under this bill would supersede those set under the Walsh-Healey Act (41 U.S.C. 35, *et seq.*).

EPA generally supports the purposes of the bill but recommends against the enactment of H.R. 6002. The Administration's bill, H.R. 5275, for reasons enumerated below, provides a more comprehensive and effective approach to the problem.

Section 102 of H.R. 6002 is patterned upon existing State-aid categorical program support authorities such as under the Federal Water Pollution Control Act. This authority overlaps, to a large measure, that contained in Section 103 of the proposal under which grants could be made to "any public or nonprofit private agency, organization, or institution" to conduct research in the same areas. Duplication of research efforts would be wasteful and could lead to confusion. We agree it is desirable to provide technical assistance to States to develop noise control programs; however, we do not believe it is necessary or appropriate for the Federal Government to provide categorical program support to states as contemplated in H.R. 6002. The more general authorities contained in Section 11 of H.R. 5275 would also provide greater flexibility in structuring research programs to be conducted by both public and private agencies. Further, the appropriation provision in Section 14 of H.R. 5275 is preferable in that it would authorize appropriations for each fiscal year beginning with 1972 for such sums as are necessary. This would provide for essential flexibility in structuring programs needed to take advantage of "breakthroughs" or unexpected new developments in research.

Title II of H.R. 6002, which sets specific requirements on dBA level exposure of aircraft to residential properties, times of takeoffs, etc., is based on current technology and existing standards. Such requirements would limit the Federal Government's authority to establish more stringent standards keeping pace with new technology. Rather than repeal Section 611 of the Federal Aviation Act of 1958, Section 6(c) of the Administration's proposal would amend Section 611 by making rules and regulations developed thereunder subject to the approval of the Administrator of EPA. The Administration's proposal would also require that the Administrator of the Federal Aviation Administration not issue "type certificates" under Section 603 of that Act unless he has prescribed standards, rules and regulations subject to the approval of the Administrator of EPA, and further that the Administrator of EPA may at any time request the Administrator of FAA to report on the advisability of revising standards, rules and regulations not believed to adequately protect the public from aircraft noise or sonic boom. The Administration's approach provides flexibility to take into account changes in noise technology, noise monitoring, and noise control requirements.

Again under Title III of H.R. 6002, pertaining to control and abatement of motor vehicle noise, numerical values and other conditions for noise exposure are specified. In this instance, the proposed limitations closely follow those established by the State of California, except that they do not specify the point of measurement (number of feet) nor do they take into account some of the research results now being developed by the Highway Research Board of the National Research Council, National Academy of Sciences, and National Academy of Engineering. Therefore, the requirements that would be fixed in the law would not reflect the latest developments, nor provide for keeping pace with such developments. Title III covers only motor vehicle noise, whereas, the Administration's proposal provides for noise generation control for other internal-combustion engines such as heavy construction equipment (compressors, generators, etc.). Virtually all recent studies have concluded that the major sources of noise in urban areas are from all forms of internal-combustion equipment. H.R. 6002 thus deals with only a portion of the problem while the Administration bill provides for the most important sources.

Title IV of H.R. 6002 specifies numerical levels that must be included in the regulations. The numerical regulations regarding the 8-hour daily exposure are more restrictive than those presently specified in the Walsh-Healey Public Contracts Act (which have been a source of controversy). This Title, in effect, would supersede the authorities of the Occupational Health and Safety Act of 1970 regarding occupational health vested in the Secretaries of Labor and Health, Education, and Welfare. The environmental aspect of occupational health and safety is only one segment of programs which involve a combination of medical, engineering and educational functions that should be conducted in an integrated, coordinated fashion. Removal of responsibility, authority and accountability for one segment of the industrial-environmental exposure would seriously weaken the overall occupational health and safety effort. In addition to the environmental controls, other measures are required, such as the setting of standards for hearing ability associated with various tasks and occupations, and pre-employment and periodic audiometric and other evaluations to

differentiate effects of occupational noise from other sources of hearing loss (illness or accident), and the problem of providing an overall environmental control program operated in conjunction with other medical and educational procedures.

The relationship between the occupational environment and the general environment, recognizing the totality of environmental exposures, is taken into account in Section 5 of the Administration bill which would require that the Administrator of EPA assure consistency between the criteria provided for in that proposal and the criteria and standards for occupational noise exposure produced under the Occupational Safety and Health Act of 1970. In our view, this represents a better functional solution to the total environmental problem than that proposed in H.R. 6002.

H.R. 6986 (and H.R. 6987) would amend the Noise Pollution and Abatement Act of 1970.

Under Section 402, among other things, the Congress would find that excessive noise is a serious hazard to public health and welfare, that the level of noise in the United States has doubled since 1955; the government has not taken steps necessary to provide for control and abatement; that the Federal Government has a responsibility to protect the health and welfare of its citizens; and that all citizens are entitled to a peaceful and quiet environment. The purpose of the act would be to expand the functions and responsibilities of the Office of Noise Abatement and Control; to establish means of effective coordination of all Federal research and activities relating to noise control; to establish standards to promote public health and welfare; to provide grants, contracts and assistance to State and local government; and to establish a Noise Control Advisory Council to provide expert advice.

Section 403 would provide that the Administrator of EPA establish an Office of Noise Abatement and Control.

Section 404 would authorize the Office in performing its functions to undertake investigations, hearings, research, experiments, publish reports and assist State and local governmental bodies with technical assistance.

Section 405 would provide that this Office coordinate the efforts of any arm of the Federal Government which has any responsibility relating to the control of noise, and all Federal agencies must consult with this Office on noise problems considered to be a public nuisance. The Office would be required to publish periodic reports on the status and progress of Federal activities.

Section 406 would provide that an annual report be submitted to the Congress in July of each year which would include complete information on the results of its investigations, on the work and activities of State and local governmental bodies and on the activities of other recipients of grants or contracts.

Section 407 would establish a categorical grant program for the support of State and other local governmental bodies for developing, establishing and conducting programs of noise control and for research into the causes and effects of noise and new techniques.

Under Section 408 the head of the Office would be further authorized to make grants or contracts to any public or nonprofit organization for the purpose of conducting research into noise pollution, training professional and technical personnel, and conducting demonstrations projects.

Section 409 would forbid Federal contract negotiations with persons convicted of violation of Section 412 which lists "prohibited acts." The head of the Office would establish procedures required, and within 180 days after enactment of the legislation the President would be required to issue an order requiring compliance by all Federal agencies involved in procurement. The President could exempt any contract, loan or grant where such exemption would be paramount to the interest of the United States, and he would be required to report annually to the Congress regarding measures taken.

Section 410 would create a Noise Control Advisory Council to advise the head of the Office on its responsibilities and further to review all project grants and contracts.

Section 411 would authorize the prescribing of standards, rules and regulations applicable to any machine, or class of machinery, which is determined contributes to, or may contribute to, the endangering of the public health and welfare. Provision would be made for necessary inspections and investigations to implement this section. Manufacturers for which regulations, rules or standards were promulgated would be required to maintain records, make reports and provide necessary information. State or local governmental units would be permitted to set stricter standards than those established under this section.

H.R. 6986 further would provide for district courts to have jurisdiction to restrain violations of the standards set and to impose civil and criminal penalties for each violation with maximum fines set. If the head of the Office fails to take action against a violator within 60 days suits by private citizens would be authorized against the polluter or the head of the Office, as may be appropriate. In any civil action to which the head of the Office is a party, he would appoint attorneys to represent him.

EPA supports the general objectives of H.R. 6986, but recommends enactment instead of H.R. 5275.

Section 403 would continue the Office of Noise Abatement and Control currently established by Title IV, P.L. 91–604 and deals with responsibilities for undertaking investigations, hearings, research, experiments and reports provided under P.L. 91–604. We would prefer an approach whereby the Administrator of EPA would have management flexibility of modern program planning and budget operation and procedures.

Coordination of Federal activities under Section 405 carries forward that requirement already in P.L. 91–604 and in the main, contains the same proposals as in the Administration bill under Section 4. Section 405 would require the publication of a periodic report and Section 406 requires an annual report. While a report requirement is desirable, we believe only one such requirement is preferable.

As in H.R. 6002, the grant programs provided in Section 407 and 408 would be duplicative. Again, the technical assistance provisions contained in H.R. 5275, would provide a better basis for Federal support of State and local programs and would give more flexibility to take care of individual State needs. Section 407 and 408 would also provide specific appropriation authorizations. As stated above, we believe the legislation should authorize appropriation of such sums as may be necessary. Studies that are underway in EPA will provide a basis for determining the amounts that will be needed to carry out an effective program.

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Section 409 would provide for Federal procurement procedures for with respect to noise control. Although the Administration's bill does not specifically deal with this issue, we believe that consideration should be given to the use of Federal procurement to further the purposes of the Federal noise control program.

We concur in the desirability of obtaining advice and recommendations of an interdisciplinary group of nongovernmental experts. However, we question the desirability of a Noise Control Advisory Council to deal in the actual administration of grant and contract awards. EPA is presently considering the establishment of an advisory group. In this context we will take account of the need for experts in the noise control field.

As provided in Section 411 standards, rules and regulations would be applicable to machines, or classes of machinery, defined in Section 416 as any item of mechanical or electrical machinery or equipment. This definition is vague and could cover almost anything. The Administration bill deals with the major sources of noise in urban areas. Studies that are now underway in EPA will be useful in identifying other sources of noise that require attention and other steps that may be needed on the part of Federal, State or local governments to reduce noise.

An almost impossible situation for manufacturers would be created by provision for State or local standards which are stricter than those set by the Federal Government for products in interstate commerce. While conditions in States may vary, it is envisioned that the standards to be established by the Administrator of EPA would be those most consistent with requirements for protection of health and welfare and the abatement of nuisances. Where more restrictive requirements might be needed to meet special State situations, the provision of the Administration's bill would preserve the rights of States or sub-divisions to control, regulate, or restrict use, operation, or movement of products emitting noise. We believe that this is a far more satisfactory approach to the problem.

Section 414 provides that attorneys employed by the "head of the Office" shall appear and represent him in any actions instituted under the Act. We believe that the Attorney General of the United States or his designee should represent the Federal Government in any actions.

H.R. 6988 (and H.R. 6989) would require the disclosure of the operational noise level of all new machinery distributed in interstate commerce and imported into the United States one year after enactment. "Machinery" is defined as an item of mechanical or electrical machinery or equipment, and "operational noise level" is defined as the highest level of internally generated noise produced by machinery when in operation under reasonably anticipated conditions of use.

The proposal would require that disclosure be made of each machine's operational noise level unless it has been specifically exempted by the Administrator. Such an exemption would be based upon the operation noise level being so low as to be negligible and that such information would not be of value to the user.

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The bill would direct the Administrator to prescribe regulations establishing standard procedures for measuring the operational noise level of each class of machinery and the form and content of plates or labels which would be required. He would be further authorized to conduct such inspection and investigation as may be necessary to implement the Act and to require manufacturers of new machinery to keep records, make reports and provide such information as the Administration may reasonably require.

The Administrator would be authorized to assess a civil penalty, not in excess of $25,000 for each violation with a maximum penalty not to exceed $500,000 for a related series of violations. Criminal penalties could be imposed by a court up to $5,000 or imprisonment not to exceed 180 days, or both. District courts would have jurisdiction of any action. Civil action by private citizens would be authorized against any violator or the Administrator if no action has been taken within sixty days after notice of a violation. In any civil action to which the Administrator is a party, he would appoint attorneys to represent him.

EPA favors the purposes of H.R. 6988, but prefers the Administration bill for the following reasons.

The definition of "machinery" in H.R. 6988 is so broad that literally thousands of items would come under it. The definition of "operational noise level" as representing the highest level of internally generated noise produced by the machine adds new terminology which would only serve to complicate the already highly complex and somewhat confused semantics relating to the noise problem. The "operational noise level" would be a required specification or statement to be included on plates or labels to be affixed to machines. We see little merit in affixing plates or labels which give no indication as to the significance of the noise level information or its effect on health and welfare or nuisance effects.

The Administration's proposal provides for a more manageable and meaningful approach to the requirement to inform the public regarding noise generation associated with various products and its significance. Greater flexibility would also be given to the Administrator in selecting the method of the notice and the units of measurement and specification of the warning. This would allow the use of the best scientific technology available to develop meaningful terms applicable to the particular product and the noise therefrom. It would also allow the Administrator to use information developed in the course of hearings called for by Title IV, P.L. 91–604.

H.R. 6990 (and H.R. 6991) would amend the Occupational Safety and Health Act of 1970 to require adoption of standards for the purpose of providing effective protection to workers against the deleterious effects of excessive noise.

This proposal would direct the Secretary of Labor to promulgate noise standards in accordance with a dBA table provided.

Since the Secretaries of Health, Education, and Welfare and Labor have the responsibilities for occupational health and safety matters, EPA defers to their judgment as to the desirability of this proposal.

It is of interest, however, that the Administrator of EPA would be required to assure consistency between criteria published under

Section 5(a) and standards for occupational noise exposure under the Occupational Safety and Health Act of 1970. We believe that the progressive limitations may go far beyond health and safety requirements. Those suggested limitations should be thoroughly examined.

In summary, we favor the purposes of most of these propopals, but we believe the Administration proposal is the most desirable.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

WILLIAM D. RUCKELSHAUS,
Administrator.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., August 11, 1971.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of the Civil Service Commission on H.R. 5275, a bill "To control the generation and transmission of noise detrimental to the human environment, and for other purposes."

The Commission has no comment on the bill.

The Commission finds no personnel management provisions or implications in the bill. The staff required to support the Administrator of the Environmental Protection Agency in the new functions assigned to him would be employed and managed under existing law and regulations.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission.

Sincerely yours,

JAYNE B. SPAIN,
Acting Chairman.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., April 13, 1971.

Hon. CARL B. ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, I am enclosing the Environmental Impact Statement for the Noise Control Act of 1971. This proposed legislation is part of the President's environmental program as announced in his environmental message of February 8, 1971, and was transmitted to you on February 10, 1971. The bill was referred to the Committee on Interstate and Foreign Commerce.

Sincerely yours,

WILLIAM D. RUCKELSHAUS,
Administrator.

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Noise Control Act of 1971

ENVIRONMENTAL IMPACT STATEMENT

A. Nature of the proposal

The bill is part of the President's environmental program as announced in his Environmental Message of February 8, 1971. It will be administered by the Environmental Protection Agency and was developed in coordination with the Council on Environmental Quality.

The proposed legislation would expand and coordinate Federal efforts to control noise, which presents a growing threat to the health and welfare of the American people. Particularly in congested urban areas, the noise produced by the products of our advancing technology, and in the manufacture of those products, causes continual annoyance and in some cases serious physical harm. While the States and localities have the responsibility to deal with many aspects of noise, effective Federal action is essential with respect to major noise problems requiring national uniformity of treatment.

The proposed bill would achieve three primary functions. First, it would establish in the Environmental Protection Agency authority to coordinate existing Federal noise research and control programs, and authority to publish criteria and control-technology documents relating to noise. Second, it would supplement existing Federal authority to regulate the noise characteristics of articles that are major sources of noise, and authorize Federal noise labeling requirements for such articles. Third, it would direct all Federal agencies to administer their programs, consistent with existing authority, in such a manner as to minimize noise.

In greater detail, the various sections of the bill provide as follows:

Section 1.—States the title of the Act.

Section 2.—States findings of the seriousness of the noise problem and of the need for more effective Federal actions; establishes a Federal policy to promote an environment free from noise that jeopardizes the public health or welfare.

Section 3.—Defines certain terms used in the bill.

Section 4.—Authorizes EPA to promote coordination of Federal noise programs, and to publish periodic reports on the accomplishments of such programs.

Section 5.—Authorizes EPA to develop and publish criteria for noise, indicating what amounts and types of noise are consistent with protection of the public health and welfare; authorizes EPA to publish reports identifying major sources of noise and discussing techniques for controlling noise from those sources.

Section 6.—Authorizes the Administrator of EPA to prescribe noise standards for construction equipment, transportation equipment, and equipment powered by internal combustion engines that he has identified as a major source of noise and for which he has discussed control technology in a report published pursuant to section 5.

Section 7.—Authorizes EPA to require noise labeling of products that create significant noise.

Section 8.—Prohibits violation of the requirements of the Act or regulations thereunder.

Section 9.—Requires every manufacturer of a product covered by noise regulation or labeling regulations to maintain such records, make such reports, and provide such information as the Administrator may reasonably require to enable him to determine whether the manufacturer has acted or is acting in compliance with the proposed act.

Section 10.—Directs Federal agencies to promote noise control.

Section 11.—Authorizes EPA to perform noise research and related activities.

Section 12.—Provides for enforcement of the prohibitions in the bill.

Section 13.—Directs the Administrator and the Secretary of the Treasury to issue regulations to apply to imports the same general standards and labeling requirements that are applied to like domestic products.

Section 14.—Authorizes appropriations.

Section 15.—Amends the Clean Air Act by deleting the requirement that there be an Office of Noise Abatement and Control in the Environmental Protection Agency.

B. Analysis of environmental implications

1. The proposed bill should have several principal environmental impacts:

(*a*) It would accelerate the growth of understanding of the effects of noise and of means of noise control. EPA would perform and support research in this area, and serve as a gathering point for the results of research performed by others. The criteria and control-technology reports published by EPA would bring together up-to-date information for the benefit of all interested persons.

(*b*) It would establish for the first time an explicit Federal policy to protect the environment from moise. Although there are existing Federal programs for noise control, these presently lack a unifying policy statement and a means of coordination, both of which the bill would provide.

(*c*) It would enable EPA to regulate noise generation by certain products in commerce that are major sources of noise. By means of this authority, EPA would be able to ensure that noise reduction is considered along with all other parameters in the design and manufacture of such products, and that they will be as quiet as technological, economic and other constraints will permit. This direct regulation, on a national level, would eliminate any competitive disadvantage that might arise from State or private efforts to reduce noise from such products.

(*d*) Its provision for Federal noise labeling requirements would ensure that purchasers of products will be informed about the noise characteristics of the various products available. This would increase the effectiveness of the market mechanism in encouraging the development of quieter products, and enhance awareness of the general population to the problem of noise.

(*e*) It would ensure that noise regulation of aircraft by the FAA comports with the noise criteria developed by EPA.

2. *Any adverse environmental effects which cannot be avoided should the bill be enacted.*

The bill is not expected to have any adverse environmental consequences.

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It might be suggested that the assumption of a more active role by the Federal Government would lead State and local governments to abandon their current efforts to control noise, producing a net detriment to the environment. This is not expected to occur. The bill expressly reaffirms the continuing role of the States, and contains provisions for encouraging the States to adopt model noise-abatement laws and improved methods of noise measurement and control. The increased understanding of noise and technical assistance to the States provided under the bill should promote more effective State actions in those araes not preempted by the Federal Government.

3. *Alternatives to the proposed bill.*

Except for authority to control aircraft noise (P.L. 90–411), to set standards for highway noise levels (P.L. 91–605), and to regulate occupational noise exposures to workers in interstate industries (P.L. 91–596), the Federal Government has not yet assumed in the noise field the dominant role that it has in combatting air and water pollution. This reflects in part the fact that noise does not have residues that accumulate in the environment, and noise effects are therefore largely local to the source. Therefore, a possible alternative to the proposed bill is to leave the regulation of noise primarily to the States. However, most products that would be regulated under this bill are manufactured for a national market, making State regulation of their noise characteristics impracticable. These considerations already have led to assumption of Federal responsibility for aircraft noise and for occupational noise exposure.

Alternatively, the Federal Government might undertake to regulate not only the noise-generation characteristics of certain products in commerce but also the levels of perceived noise in areas where such levels are undesirably high. State and local restrictions on such "ambient noise" levels have not been highly effective. However, Federal assumption of this essentially local responsibility does not appear warranted. Centralized administration and enforcement of local noise limits would be unmanageable. The States and localities would be aided in their efforts by the technical assistance provided under the proposed bill, without taking from the local units of government the power to determine the levels of perceived noise consistent with community aspirations.

If neither the Federal nor the State and local governments take more effective action to control and abate noise, the noise levels in populous areas, and along the routes of major transportation lines, may be expected to become continually higher.

4. *Relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.*

In the short term, substantial costs may be incurred in industry and in government as steps are taken to enhance our understanding of noise, improve noise-control technology, and redesign products and processes to eliminate noise harmful to the public health and welfare. In certain instances product costs may be increased. However, it is unrealistic to think that the growing noise problem can be ignored indefinitely, and, as with many other forms of environmental degradation, the long-term costs of noise control will be minimized if action is begun promptly. Noise research will make possible identification of the effects of noise in advance of further aggravation of the problem. Early institution of product labeling and regulation of the major

sources of noise will help to ensure that industry will give noise factors adequate weight in design and investment decisions, avoiding long-term commitments to courses of action inimical to the public interest in noise control.

5. *Any irreversible or irretrievable commitments of resources.*

The bill would tend to direct long-term commitment of industrial resources toward production of goods with improved noise characteristics. Implementation of the bill would commit modest amounts of Federal funds to the study of noise and the Administration of the new regulatory machinery. The amounts of funds required would not be such as to detract from full and adequate funding of other Federal environmental programs.

C. Coordination with other agencies

The proposed bill was prepared in coordination with the Council on Environmental Quality with the guidance and assistance of an interagency task force including representatives of the Office of Management and Budget, the Office of Science and Technology, the National Aeronautics and Space Council, and the Departments of Commerce, Interior, Labor, Transportation, State, Housing and Urban Development, and Health, Education, and Welfare.

Comments on the draft Environmental Impact Statement from the Departments of Health, Education, and Welfare, Housing and Urban Development, and Transportation are attached.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF THE SECRETARY,
Washington, D.C., February 8, 1971.

Mr. TIMOTHY ATKESON,
General Counsel, Executive Office of the President, Council on Environmental Quality, Washington, D.C.

DEAR MR. ATKESON: We have reviewed your proposed environmental impact statements for the Federal Environmental Pesticide Control Act of 1971, Proposed Noise Control Act of 1971, and Toxic Substances Control Act of 1971. Each of them discusses and comments upon one of the three legislative proposals. The statements indicate you expect none of these proposals to have a significant adverse impact upon the quality of the human environment.

Insofar as your proposed statements analyse and discuss the merits of the three legislative proposals we have no comment beyond that which we have already given directly to OMB in our proposed legislative reports on these same proposals.

Insofar as the proposed statements predict the absence of any significant adverse environment impact should the proposed legislation be enacted, we have no information or knowledge within the area of our particular expertise which would indicate the contrary. We believe that the bills will have a positive impact on the environment.

Sincerely yours,

DONALD T. BLISS,
Special Assistant to the Secretary.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, March 9, 1971.

Mr. WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Administration,
Washington, D.C.

DEAR MR. RUCKELSHAUS: This is in response to the request for comment on the bill proposing the Noise Control Act of 1971 and the draft 102(2)C Environmental Statement, dated January 22, 1971, which accompanies this bill.

This Department interposes no objection to the environmental impact of this bill which we find reasonable as a first step in developing a coordinated national approach to noise control.

As an editorial refinement for focus and scope, we would extend the title of Section 4 of the bill by adding the words "and policies" to the title. We would also insert the words "and policies" after "programs" in both sentences in Section 4(a). We would avoid the false inference that has been drawn from existing language to the effect that this is primarily a research program by omitting the words "noise research and" in both sentences of 4(a) and adding the words "including supporting research" at the end of both sentences. The draft environmental statement should be adjusted accordingly.

Sincerely,

CHARLES J. ORLEBEKE,
Deputy Under Secretary.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 12, 1971.

Mr. TIMOTHY ATKESON,
General Counsel, Council on Environmental Quality,
Washington, D.C.

DEAR MR. ATKESON: As requested by your letter of January 28, 1971, we have reviewed the draft environmental impact statements for proposed legislation in the areas of ocean dumping, noise control and water pollution control. We have not yet received the impact statement on the National Land Use Policy bill.

We have had an opportunity to review previously the proposed ocean dumping legislation. The impact statement is consistent with the bill, and we have no comments on it.

The proposed water pollution legislation appears to have few transportation implications, and we have no comments on those environmental impact statements. We would, however, call your attention to the comments which the Department has sent to OMB on the "Enforcement" and "Phosphate Control" legislation under date of February 4, 1971.

We have several comments on the impact statement for the proposed Noise Control Act of 1971. These comments parallel, to some extent, our views on the legislation itself, as transmitted to OMB on January 29, 1971. Our comments on the legislation were intended to strengthen the proposed act, particularly insofar as the abatement of transportation generated and transmitted noise is concerned. If OMB revises the proposed act per the Department's suggested changes and comments, the subject impact statement should be revised accordingly.

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If the proposed act is not changed as suggested by the Department, the following comments pertain to the "Analysis of Environmental Implications" section of the statement:

Par. 1(c): This paragraph is too general. It presents an oversimplified picture of the environment in the noise area. The use of the phrase "as quiet in use as technology will permit" is misleading and tells only one part of an extremely complicated problem. Economic, social, political and jurisdictional considerations are not mentioned. The second sentence should be revised to read "By means of this authority, EPA would be able to ensure that noise reduction is considered along with all other parameters in the design and manufacture of such products, and that they will be as quiet as technological, economic and other constraints will permit."

Par. 3: This paragraph is inconsistent. The Federal Government has assumed the dominant role for noise (preempted for aircraft) in three areas:

(*a*) P.L. 90–411: Standards for measurement and evaluation, and for control of aircraft noise and sonic boom.

(*b*) P.L. 91–605, Section 136: Standards for highway noise levels.

(*c*) Title 41 CFR, Part 50-204.10: Standards for occupational noise levels.

This dominance should be noted and the reasons for altering it presented in this paragraph on alternatives.

Another point, Section 11.(c) of the proposed act, states that the Administrator of EPA shall not approve an airport development project without certifying that ". . . the design and operation of the airport development will be consistent with the protection of the surrounding area from noise that adversely affects human health or welfare." This essentially places the responsibility for the "ambient level" of airport environs on EPA, since aircraft noise is predominantly the highest of any type of noise around airports. It therefore follows that the Federal Government is regulating, in effect, the "levels of perceived noise in areas where such levels are undesirably high." The impact statement says that the Federal assumption of this local responsibility is not warranted. The impact statement is not consistent with the proposed act, and should be changed.

As noted earlier (see items 3.a. and 3.b.), the Federal Government is taking effective action to control and abate noise along the routes of major transportation lines, and the impact statement should not state nor imply otherwise.

We appreciate the opportunity to comment on these draft statements, and we look forward to reviewing the draft statement on National Land Use Policy when it becomes available.

Sincerely,

MICHAEL CAFFERTY,
Acting Assistant Secretary for Environment and Urban Systems.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 611 OF THE FEDERAL AVIATION ACT OF 1958

CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

[SEC. 611. (a) In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration, after consultation with the Secretary of Transportation, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such rules and regulations as he may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards, rules, and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title.]

SEC. 611. (a) For purposes of this section:

(1) The term "FAA" means Administrator of the Federal Aviation Administration.

(2) The term "EPA" means the Administrator of the Environmental Protection Agency.

(b)(1) In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that aviation safety requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

(2) The FAA shall not issue on original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d).

(c) (1) If any time EPA has reason to believe that—

(A) a standard or regulation (or any proposed standard or regulation) under this section, or any exemption, granted under any provision of this Act, with respect to such a standard or regulation, or

(B) the action of the FAA in issuing an original type certificate for an aircraft for which standards and regulations described in subsection (b)(2) have not been prescribed,

does not protect the public from aircraft noise or sonic boom consistent with the considerations listed in subsection (d) of this section EPA shall consult with the FAA and may request the FAA to review, and report to EPA on, the advisability of such action or of revising such standard, regulation, or exemption, as the case may be. Any such request may be published in the Federal Register and shall include a detailed statement

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of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than 90 days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action or standard or regulation (or exemption therefrom); and shall specify whether (and where) such statement is available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

(2) If, in the case of a matter described in paragraph (1)(A) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA indicates that the revision (if any) proposed by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such time as EPA may specify (but such time specified shall not be less than 90 days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the existing (or proposed) standard or regulation of the FAA (or exemption therefrom) and (B) EPA's proposed revision.

(3) If, in the case of an action of the FAA described in paragraph (1)(B) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA states that issuance of an original type certificate should not be preceded by issuance of a noise standard and regulation, the FAA shall, upon request of EPA, file a statement (of the type described in such section 102(2)(C)) with respect to the issuance of such certificate. The requirements of such section 102(2)(C) relating to consultation, obtaining comments, and the availability of statements made pursuant to such section shall apply to any statement filed under the preceding sentence.

[(b)] *(d)* In prescribing and amending standards [, rules,] and regulations under this section, the [Administrator] *FAA* shall—

(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

(3) consider whether any proposed standard [, rule,] or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

(4) consider whether any proposed standard [, rule,] or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

(5) consider the extent to which such standard [, rule,] or regulation will contribute to carrying out the purposes of this section.

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[(c)] (e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards [, rules,] or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the [Administrator] *FAA* if it finds that control or abatement of aircraft noise or sonic boom and the public interest do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation.

For the information of the Members, section 1905 of Title 18, U.S.C., is set forth below:

SECTION 1905 OF TITLE 18, U.S.C.

§1905. Disclosure of confidential information generally.

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examniation or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment.

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1.4a(2) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 92-1160 92d Cong. 2d Sess. (1972)

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

SEPTEMBER 19, 1972.—Ordered to be printed

Mr. RANDOLPH, from the Committee on Public Works, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 3342]

The Committee on Public Works, to which was referred the bill (S. 3342) to amend title IV and to add a new title V to the Clean Air Act, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

GENERAL STATEMENT

The growing public awareness over the quality of the environment has spotlighted another problem untouched by Federal regulation. Noise—unwanted sound—is increasing in urban areas at a rate which may double the average person's exposure to it within 10 years. Testimony before the Subcommittee on Air and Water Pollution indicates clearly that the impact of noise goes well beyond mere unpleasantness, stress and other psychic effects. It in fact may cause serious physiological effects on the human body ranging from deafness to enhanced risk of cardiovascular disease to alteration of fetal nervous systems.

As with other forms of pollution, noise pollution is man-made. It occurs as a by-product of an enormous number of commercial and domestic machines.

According to the Environmental Protection Agency, noise has a significant impact on more than 80 million Americans. Of those, about 40 million persons are literally listening to a health hazard, risking hearing impairment and other physiological and psychological effects.

As many as 44 million Americans have the utility of their dwellings adversely affected by noise from aircraft or traffic, and 21 million more Americans are similarly affected by construction-related noise.

The acoustic vibrations which make up noise pollution are invisible. They leave no residue, and they disappear almost instantly when the source is turned off. However, noisemakers abound is our urban environment, making it almost impossible for the individual to find even a short unbroken period of rest or retreat from noise. The effects which occur as a result of a given noise environment depend on the intensity and character of the noise, the total exposure time, and the activity (such as conversation or rest) affected.

The myths and misconceptions perpetuated about the degrading effects of noise on the health and welfare of individuals have permitted the noise pollution problem to grow into a serious problem. A single measure of the impact is demonstrated by the number of compensation claims for hearing loss. These claims have increased tenfold in recent years with every indication of judgments reaching into the hundreds of millions of dollars in the near future. But the economic costs of compensation are only part of the total impact of noise pollution. An accurate estimate of the total costs would have to include physical damage to structures, loss of property values, interruption of the educational process, interference with communication, hearing loss and other health effects. The dollar costs cannot accurately reflect the intangibles, which involve annoyance, frustration, chronic stress, and suffering.

The Committee learned from audiologists and other expert witnesses that there are many misconceptions about the effects of noise on hearing and other aspects of health. These result, in part from the subtle and misleading symptoms which occur in the process of gradually increasing hearing loss.

Individuals often have few clues which indicate the insidious progression of physiological damage to the ear. There is no pain—no bleeding. Yet, during noise exposure, microscopically tiny hair cell receptors, buried deep in the inner ear and delicately poised in their fragile array, are torn from their roots or gradually beaten into insensitivity by incessant vibrations.

The individual's perception of this process belies its true impact on the delicate mechanism of hearing. Whether the individual is an industrial worker or a member of a hard-rock band, hearing ability following temporary hearing loss due to noise exposure, seemingly returns to normal after a day or so of rest, suggesting to the unwary victim that no permanent damage was incurred. Audiologists affirm, however, that repeated acoustic insults to the ear leave a residual permanent damage which accumulates over time.

Information presented to the Committee indicates that noise has effects on other physiological systems in addition to hearing, and on psychological factors as well. Noise appears to directly alter heart rhythms and constricts blood vessels. The 1972 Report on Noise of the Environmental Protection Agency stated, ". . . there is some evidence that worker exposed to high levels of noise have a higher incidence of cardiovascular disease, ear-nose-and-throat disorders, and equilibrium disorders than do workers exposed to lower levels of noise" and ". . . there is evidence from animal research that high sound levels can inter-

fere with sexual-reproductive functions (and) can interfere with resistance to viral disease . . ."

Individuals who are subjected to high noise levels for extended periods, or who cannot rest or sleep in residential circumstances substantially quieter than their work place, appear to run a high risk of psychological distress. One study of workers showed men working in noisy conditions to be more aggressive, distrustful and even paranoiac than similar workers in a quieter setting. The failure to obtain a markedly lower noise level at home than in the working place, to provide a recuperative period for mental processes, has been shown to have psychological costs in family stability. Many individuals in this Nation, already affected by health problems such as high blood pressure and emotional illness, are especially susceptible and need protection from the added stress of noise, according to information gathered by the Committee.

Property values suffer markedly from high levels of noise. In a study conducted by the City of Inglewood, California, a community affected by noise from Los Angeles International Airport, land subject to noise levels less than 80 PndB was valued an average 50% higher than land subject to noise levels greater than 110 PndB. This appears to be related not only to aircraft noise in residential areas but to the constant disruption of local schools by aircraft noise.

The Occupational Safety and Health Act requires that no worker be subjected to 115 dBA for more than 15 minutes or to 90 dBA for more than eight hours. (The term "dBA" is a measurement of sound intensity in decibels, on the A scale which is theoretically weighted toward those frequencies predominant in human response. An increase of 10dBA, since such units are logarithmic, would be an increase of 100%.) These standards which are a first step toward health protective standards moderated by considerations of cost and technology and therefore protective of only 70 to 80% of exposed workers, are commonly exceeded in the non-occupational environment. A power mower, a subway at 35 miles per hour, and a compressor at 20 feet each attain 95dBA. A jet flyover at 1000 feet is 103dBA, and a jet take-off reaches 110 to 120dBA. A rock band easily scales 108 to 114dBA. Obviously, multiple sources dramatically increase the level to which any individual is exposed.

The success of any new legislation on noise pollution ultimately will have to be measured in terms of a) its impact on reducing hearing loss and other direct effects on health, b) its ability to establish levels of noise in the environment conductive to good communication; and c) its success in providing environments free of noise pollution at times and in areas where relaxation and sleep are needed.

At the turn of the century, Robert Koch, the Nobel laureate who worked to control contagious disease wrote: "The day will come when men will have to fight noise as inexorably as cholera and plague." That day is here, and this bill provides tools to begin the fight.

[p. 3]

MAJOR PROVISIONS

NOISE EMISSION STANDARDS FOR PRODUCTS

The major regulatory thrust of this legislation is to require the Administrator of the Environmental Protection Agency to establish noise emission standards for newly manufactured products which are major sources of noise, on the theory that Federal action is needed to effectively deal with the noise problems created by vehicles, construction equipment, and other machinery which move so commonly in interstate commerce. As with other types of environmental pollution, control of emisions at the source is considered the most effective contribution which the Federal Government can make in reducing levels of environmental noise.

The standards would cover new products, those which have never before been sold to a consumer, which are manufactured after the effective date of standards. Remanufactured and rebuilt products whose original functions have been restored by a manufacturer are defined as new products. However, noise emission standards are to be established for such rebuilt products on the basis of what can be achieved for products of that class, i.e., rebuilt products, and not what is being required of newly manufactured products of a similar type.

The term "manufacturer" is defined to exclude "dealers", unless a dealer's assembly work involves modifications increasing the noise characteristics of the product. The purpose of this distinction is to fix responsibility for compliance with noise emission standards and liability for warranty costs on the party actually responsible for the noise emission characteristics of the product.

The term "product" specifically excludes aircraft and related components. The intention of the Committee is to separate the treatment of aircraft under Title V from the treatment of products which are major sources of noise under Tile IV, except where specifically included.

The bill also provides extensive research and investigation authority, not only for noise emissions from products and aircraft, but for examining the effects of noise on humans and other living systems. The concept of the Audiological Data Bank has emerged as a valuable means whereby individuals' attitudes about noise, hearing and hearing loss can be recorded along with various indices of hearing ability. Data in the bank must come from many sources, and cover the entire age range. Each computerized record provides a longitudinal index on individuals or groups, permitting a careful evaluation of the long term effects of various noise environments, as well as changes or trends which occur overtime. A Data Bank of this type, such as the one being organized at the Stanford Medical School, should be supported by the research and long-term health effects study funds available under section 405. [p. 5]

Environmental Noise Criteria

Section 407(a) requires the Administrator to issue noise criteria within nine months after enactment, reflecting all the identifiable effects of differing quantities and qualities of noise on public health or welfare. He will be expected to produce criteria documents very much like those prepared under the Clean Air Act for similar uses. These criteria must set forth the levels of environmental noise the attainment and maintenance of which, in defined areas under various conditions, are requisite to protect the public health and welfare with an adequate margin of safety.

The concept of "environmental noise" is used through the bill to describe the overall level of noise in a given area to which individuals are exposed, including the intensity, duration, and character of sounds from all sources. It also includes the concept of a limitation on noise which would be applicable to every individual source in such a defined geographic area.

Standards for Major Sources of Noise

Within fifteen months after enactment, the Administrator is required by section 407(b) to publish reports identifying products which appear to be major sources of noise. Identification as a major source of noise is the first step in the development of noise emission standards for particular products. Of course, the Committee expects the Administrator to begin drafting possible noise emission standards for a product as soon as his initial investigations suggest that it might be identified as a major source of noise. This is necessary because noise emission standards must be promulgated for any product identified in the initial list of major sources within 18 months after enactment.

In view of the special purposes, attributes and uses of motor racing vehicles, such as Indianapolis cars and stock cars, it is the intent of the Committee that the Administrator will not designate as a "major source of noise" vehicles or engines, or any components or accessories thereof, which are manufactured for modified for, or utilized exclusively in organized competitive off-highway motorsports events. Likewise the Committee does not expect the Administration to identify church bells or carillons in major sources of noise.

Noise emission standards must be established for any major source of noise which falls into the categories of construction equipment, transportation equipment, motors or engines, turbines and compressors, percussion and explosive equipment, or electrical and electronic equipment (other than sound reproduction equipment). These standards must take effect, with respect to products manufactured after that date, no later than two years after the date of promulgation or any shorter period which permits the application of the necessary technology. The Administrator is given authority to define "effective date" in such a way as to prevent the stockpiling of inventories to circumvent the purpose of the standards.

Standards for new products are required to set limits on noise emissions which in the Administrator's judgment reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. The difficulty of

relating noise emissions from a given source to effects on public health and welfare in an enforceable way, when standards are to be set on a national basis without control of the circumstances of use or the number of products in a given area, led the Committee to conclude that implementation of a technologically-based standard was preferable in terms of uniformity and enforceability to one calling for protection of the public health and welfare. While the intention of the whole bill is to protect public health and welfare from environmental noise, the Committee expects that the application of the best available technology will just begin to realize that goal in the foreseeable future.

After the effective date of standards applicable to a product, the manufacturer must warrant to the purchaser and subsequent owners of that product that it conforms with the standards at the time of sale and that it is free from defects in materials and workmanship which cause the product, under normal use, operation, and maintenance, to fail to conform during its useful life. Useful life is to be determined by the Administrator, taking into account the range of uses to which such product might be put.

This is a defects warranty, not a warranty that the product will in fact perform up to the standards throughout its useful life. The Committee intends that the manufacturer be liable only for those changes in noise emissions which are in fact within his control. This is the purpose for including the consideration of the many possible, even unforeseeable uses to which the product may be put, and for requiring the user to operate and maintain the product in a normal way. In fact, standards may contain provisions dealing with manufacturers' instructions for the maintenance or use of the product.

Preemption

Subsection 408(d) of the bill deals with the responsibilities of the Federal government and State and local governments in controlling noise. For any product manufactured after the effective date of an applicable Federal standard, authority to establish noise emission standards for the product enforceable directly or indirectly against the manufacturer is preempted. States and cities, however, retain complete authority to establish and enforce limits on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of a product, or concentration or combination of products.

It is the intention of the Committee to distinguish between burdens which fall on the manufacturers of products in interstate commerce and burdens which may be imposed on the users of such products. In the judgment of the Committee, noise emission standards for products which must be met by manufacturers, whether applicable at the point of introduction into commerce or at any other point, should be uniform.

On the other hand, States and local governments have the primary responsibility under the bill for setting and enforcing limits on environmental noise which in their view are necessary to protect public health and welfare. This essentially local responsibility is not assumed or interfered with by this bill, although Federal leadership and technical assistance are provided in the criteria required by section 407(a) which will set forth levels of environmental noise protective of public health and welfare.

The environmental impact statement prepared by the Administration for its proposed noise control legislation stated: "The States and localities would be aided in their efforts by the technical assistance provided under the proposed bill, without taking from the local units of government the power to determine the levels of perceived noise consistent with community aspirations." This also reflects the intention of the Committee in this bill. At a minimum, States and local governments may reach or maintain levels of environmental noise which they desire through (a) operational limits or regulations on products in use (such as speed or load limits or prohibitions of use in given areas or during given hours); (b) quantitative limits on environmental noise in a given area which may be enforced against any source within the area, including zones adjacent to streets and highways; (c) regulations limiting the environmental noise which may exist at the boundary of a construction site; (d) nuisance laws; or (e) other devices tailored to the needs of differing localities and land uses which do not amount to a burden manufacturers must meet to continue in business.

This discussion of preemption does not deal with regulation of noise from interstate carriers such as railroads and motor carriers. Such sources, which are regulated under Parts B and C of title V, are subject to State or local regulations only where the Administrator determines it to be necessitated by special local conditions or not in conflict with regulations under Parts B or C.

Enforcement

The bill generally parallels the enforcement authority of the Clean Air Act. This includes criminal penalties of $25,000 or one year's imprisonment for the first violation of the prohibited acts section applicable to manufacturers. The bill also provides authority to enjoin any violation. In addition, the bill makes it a criminal violation for a manufacturer or dealer to assist any person in removing or disconnecting a noise suppression device or the giving of information to any person on how to remove or disconnect such device for purposes not allowed by the bill.

Exports

Standards apply to all new products except those intended solely for export. Exported products have only to comply with the standards of the importing country. It is not the intention of the Committee to require the United States government to enforce the noise emission standards of other countries. Rather, this language in section 411(b) is intended to make clear that exported U.S. products must comply with applicable foreign standards.

The bill also provides authority for citizens to sue in the Federal district courts to abate violations of the requirements of the law. This section is nearly identical to the citizen suit provisions in the Clean Air Act (section 304) and the Committee intends that it be utilized and interpreted in a similar fashion.

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AIRCRAFT NOISE

Excessive noise from aircraft has been identified as the major noise problem for many Americans. One of the concerns which the Committee addressed in considering means to reduce aircraft noise was the relative roles of the Environmental Protection Agency, created in 1970 to centralize the Federal government's environmental regulation, and the Federal Aviation Administration, charged with complete responsibility for aircraft operations and safety.

Presently, under section 611 of the Federal Aviation Act, the FAA has authority to set standards for noise emissions from aircraft and aircraft engines. Current standards cover only certain new aircraft types certificated after the effective date of those standards. Proposed standards recently published in the Federal Register would extend coverage to newly manufactured aircraft of existing types. Under section 309 of the Clean Air Act, EPA has authority to review and comment on regulations of FAA and other agencies.

In the judgment of the Committee, the proper role and expertise of the Environmental Protection Agency is in identifying levels of environmental noise associated with adverse effects on public health and welfare, and, as in the Clean Air Act and Federal Water Pollution Control Act, in assessing the availability of technology to attain such levels. The special expertise and responsibility of the Federal Aviation Administration is recognized by the Committee in the area of aircraft engine and airframe design and construction, aircraft operations, and, above all, safety in air commerce.

Accordingly, section 501 of the reported bill requires the Administrator of the Environmental Protection Agency to promulgate standards for the measurement of aircraft noise and to identify levels of noise emissions from aircraft and aircraft engines which in his judgment are adequate to protect the public health and welfare with an adequate margin of safety. In this instance the term "safety" refers to safety from adverse effects of noise on public health and welfare. The Environmental Protection Agency therefore establishes in the first instance the levels for aircraft noise which would be necessary to protect public health and welfare.

Standards for noise emissions from aircraft, which actually define what aircraft manufacturers and air carriers must attain, would be promulgated on the basis of the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the cost of compliance. Technological availability and the reasonableness of compliance costs would be jointly determined by the Administrators of the Environmental Protection Agency and the Federal Aviation Administration, since they share expertise in these matters. However, standards may be promulgated only after the Administrator of the Federal Aviation Administration determines them to be consistent with the highest degree of safety in air commerce, and technologically available for application to the particular aircraft or engine type in question. Air safety is to be the paramount consideration, and the FAA's responsibility in as-

suring safety is recognized in this veto over aircraft noise emission standards.

The bill provides that existing standards promulgated under section 611 of the Federal Aviation Act will continue in effect until modified in accordance with the provisions of this bill. The Administrator of the Environmental Protection Agency is directed to review those standards within 9 months after enactment for consistency with the requirements of this bill. Original type certificates cannot be issued after July 1, 1973, unless noise emission standards which apply to such aircraft have been promulgated. Any standards would be implemented and enforced through the authority of the Federal Aviation Administration, under its on-going program of inspection and certification of aircraft. In addition, violations of the standards would be subject to the penalties and abatement procedures until Title IV, including citizen suits to abate violations.

The Committee considered approaches to controlling aircraft noise based on a concept of cumulative noise exposure, involving the level of noise from aircraft to which individuals in the areas surrounding airports are exposed and the effects of such exposure on public health and welfare. While methods other than noise emission standards can be effectively utilized to reduce aircraft noise, the Committee felt that it had insufficient knowledge as to the precise regulatory mechanism for cumulative aircraft noise exposure. Therefore, the Committee included in the bill, in place of any regulatory scheme dealing with community noise around airports, a one year study by the EPA of the implications of identifying and achieving levels of cumulative noise exposures around airports. The results of this study, submitted to the Committees on Public Works and Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House with legislative recommendations, will form the basis for any legislation on aircraft noise in the next Co ngress.

Also included in this study are the adequacy of FAA flight and operational noise controls, the adequacy of noise emission standards on new and existing standards on new and existing aircraft (together with the Environmental Protection Agency's recommendations on the retrofitting and phaseout of existing aircraft), and any additional measures available to airport operators and local governments to control aircraft noise. In the context of the development of this legislation, inquiries were sent by one member of the committee to manufacturers, airlines, trade organizations, government agencies, and independent consultants concerning the possibility of mandating retrofit and phaseout requirements. (See appendix for text of letter and replies.)

Tools other than noise emission standards do exist for reducing aircraft noise. It is the intention of the Committee in section 501(c) of the bill that all existing authority over aircraft or aircraft noise be utilized to reduce that noise, including, among other things, the consideration of flight and operational changes such as the two-segment landing approach and the adjustment of take-off, approach and flight paths to impact fewer people, and review of traffic flow with regard to adequacy of load factor.

States and local governments are preempted from establishing or enforcing noise emission standards for aircraft unless such standards are identical to standards prescribed under this bill. This does not

address responsibilities or powers of airport operators, and no provision of the bill is intended to alter in any way the relationship between the authority of the Federal government and that of State and local governments that existed with respect to matters covered by section 611 of the Federal Aviation Act of 1958 prior to the enactment of the bill.

STATE AND LOCAL ENVIRONMENTAL NOISE CONTROL PROGRAMS

The Administrator is authorized to grant a total of $22.5 million over a three fiscal year period to State and local environmental noise control agencies. Grants are limited to two-thirds of planning and development costs and one-half of maintenance costs, in order to highlight the importance of getting new programs off the ground. No one State may receive more than 10% of the total funds, and, where an environmental noise control agency program encompasses more than one State, funds are apportioned.

Specific requirements must be met before an agency may qualify for a grant. First, the agency must meet the qualifications of the definition of "environmental noise control agency" contained in section 404. It must be established pursuant to State law or local ordinance and have jurisdiction over the prevention and control of noise. Secondly, there must be adequate representation of local, State and international interests, where appropriate. Thirdly, the Administrator must be assured that the agency has the capability of developing and enforcing a comprehensive environmental noise control program. To qualify, the agency must have authority to regulate the location, modification, and construction of individual noise sources. It must have authority to assure that products in use will not exceed applicable noise levels, and that controls on environmental noise can be enforced against individual sources. Noise monitoring equipment must be available in the field to monitor compliance with required standards and levels, and the agency must have authority to issue abatement orders.

By conditioning funding on effective enforcement authority of State and local environmental noise control agencies, the Committee intends to implement one of the major policies of the Act: the encouragement and support of adequate State and local programs to control environmental noise.

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HEARINGS

The Subcommittee on Air and Water Pollution conducted three days of hearings in 1972 on noise control legislation. Bills before the Subcommittee included S. 1016, the Administration proposal as introduced by Senator Cooper and 32 cosponsors; H.R. 11021, as passed by the House of Representatives; and S. 3342, introduced by Senators Tunney and Muskie.

The first day of hearings was held March 25, 1972, in San Francisco, California, in a State which has given considerable legislative attention to its noise problem. Hearings were held in Washington, D.C., on April 12 and 13, 1972, to receive testimony from the Environmental Protection Agency, representatives of State and local governments, and national trade associations.

A total of 26 witnesses were heard, including Federal, State, and local officials, technical and scientific experts on noise and spokesmen for industry, and trade, governmental and citizen organizations. Additional statements and supporting materials filed with the Subcommittee and included in the printed hearing record totaled 62.

VOTES DURING COMMITTEE CONSIDERATION

No rollcall votes were taken in committee during consideration of this legislation. The bill was ordered reported by a voice vote.

COST OF LEGISLATION

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in this report of the Committee's estimate of the costs of reported legislation, together with estimates prepared by any Federal agency. The bill authorizes $18,000,000 in fiscal year 1973, $36,000,000 in fiscal year 1974, and $50,000,000 in fiscal year 1975 for the general implementation of Titles IV and V. These sums were derived by the committee from estimates prepared by the Environmental Protection Agency of the cost of carrying out earlier drafts of this legislation. The Environmental Protection Agency did not support grants to State and local environmental noise control agencies or Federal incentive purchases of low-noise-emission products, and did not submit estimates of the costs of these programs.

The following is a summary of funds which would be authorized for fiscal years 1973, 1974, and 1975:

[In millions]

Program	1973	1974	1975	Total
General authorizations	$18	$36	$50	$104
Grants to State and local environmental noise control agencies (sec. 418)	5	7.5	10	22.5
Incentive purchases of low-noise-emission products (sec. 419)	1	2	2	5
Totals	24	45.5	62	131.5

COMMITTEE VIEWS

Although there have been sporadic efforts to control the noise problem in the past, and State and local governments have recently been quite vigorous in their response to the local effects of various noise sources, it is now clear that the Congress must consider noise as a general pollution problem and develop a regulatory framework which will achieve effective control of this form of environmental degradation.

For this reason, and because delay would disrupt the developing noise control program of the Environmental Protection Agency, the Committee recommends passage of this bill.

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SECTION-BY-SECTION ANALYSIS ENVIRONMENTAL NOISE CONTROL ACT OF 1972

TITLE IV

Section 401. Short Title.—This section designates the Act as the "Environmental Noise Control Act of 1972" and contains the table of contents for Title IV.

Section 402. Statement of Congressional Finding and Policy.—This section expresses Congress' concern with the growing danger to health and welfare of environmental noise. States retain primary responsibility to control environmental noise, but Federal action is declared necessary to deal with major sources of noise. A national policy for protection of public health and welfare from effects of noise is declared, including encouragement of and support for State and local programs to control environmental noise. Public participation in all procedures and activities under the Act is required.

Section 403. Office of Noise Abatement and Control.—This section amends existing law to continue the authority of the Office of Noise Abatement and Control in the Environmental Protection Agency. The Office's authority is extended to implementation of the provisions of this Act. Basic rulemaking and administrative authority are provided to the Administrator.

Section 404. Definitions.—This section defines terms for purposes of administering and interpreting the Act.

Section 405. Research, Investigation, Training, and Other Activities.—This section authorizes the Administrator to conduct basic and applied research and development programs related to environmental noise. The Administrator also is authorized to provide technical and financial assistance, to disseminate information, to cooperate with relevant agencies and to contract with other public agencies in carrying out research and development. The Administrator also is authorized to provide manpower training assistance and educational assistance programs.

Section 406. Federal Programs.—This section requires all Federal agencies to operate all Federal facilities and programs under Federal law in a manner consistent with the standards and policies of this Act. The Administrator also is authorized to coordinate all Federal agency programs related to environmental noise research and control. The Administrator is required to comment publicly on noise control programs and regulations established by other Federal agencies.

Section 407. Noise Criteria and Control Technology.—This section requires the Administrator to develop and publish criteria for noise, identifying the effects of various levels of noise, and setting forth levels of environmental noise which will protect public health and welfare. The Administrator also is required to compile and publish reports identifying products which are major sources of noise and providing

information on techniques to control the noise from these products, as well as information on methods and techniques for controlling environmental noise by means other than controls on noise emissions of new products.

Section 408. Noise Emission Standards for New Products.—This section directs the Administrator to promulgate regulations within 18 months after enactment establishing noise emission standards for categories of new products which he has found to be major sources of environmental noise. These sources include construction equipment, transportation equipment, any motor or engine, turbines and compressors, percussion and explosive equipment, and electrical and electronic equipment. The Administrator is required to promulgate additional regulations as he adds new products to the list of major sources of environmental noise. Noise emission standards must be established on the basis of the reduction in noise emissions achievable with the application of the best available control technology, taking into account the cost of compliance. The effective date of regulations, after which new products must be designed and manufactured to meet the standards, would be no later than two years after promulgation of the standards. The entry of non-conforming products into commerce is prohibited after such effective date, and inventories could not be built up to circumvent the effective date.

This section also provides for a design warranty of products covered by noise emission standards, which requires manufacturers to warrant that defects in materials or workmanship will not cause a new product under normal use and maintenance to fail to conform to emission standards over its useful life, taking into account the range of uses for such product.

Authority to establish noise emission standards enforceable against the manufacturer for any product manufactured after the effective date of an applicable Federal standard is preempted, while States and cities retain the authority to establish and enforce limits on environmental noise through licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products. Regulation of noise emissions from railroads and motor carriers is separately treated, because of movements in interstate transportation (see Title V, Part B). Products which comply with standards before the actual effective date are covered by preemption from the date of compliance, rather than after the effective date.

Section 409. Labeling.—This section authorizes the Administrator to establish labeling requirements for any product which he finds to be a major source of environmental noise, or which is sold as effective in reducing noise.

Section 410. Imports.—This section authorizes the Secretary of the Treasury, in consultation with the Administrator, to issue regulations to carry out the purposes of the Act with respect to products imported into the United States.

Section 411. Prohibited Acts.—This section describes the activities for which enforcement is authorized under the Act. Standards apply to all new products except those intended solely for export.

Section 412. Enforcement.—This section authorizes criminal penalties for introduction into commerce and importation of products in violation of Federal standards. Criminal sanctions parallel to those of

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the Clean Air Act of 1970 are included, with fines up to $25,000 and one year in prison for first offenses, and $50,000 and two years in prison for subsequent offenses. Injunctive authority is provided, and the Administrator may order such relief from violations of the Act as he determines necessary to protect the public health and welfare, in accordance with due process.

Section 413. Citizen Suits.—This section authorizes citizens to sue in the Federal courts for violations of the Act, and to compel the EPA Administrator and the FAA Administrator to perform non-discretionary duties. This section conforms with the citizen suit provision enacted in the Clean Air Amendments of 1970.

Section 414. Emergency Situations.—This section authorizes the Administrator or the Attorney General to bring expedited civil actions against any product the noise emissions from which are an imminent and substantial endangerment to public health. Relief can include notice to purchasers and the public, recall, correction, or seizure.

Section 415. Judicial Review.—This section provides for the judicial review of standards and regulations under titles IV and V, with petitions to be filed within 90 days after promulgation in the United States Court of Appeals for the District of Columbia. Stays of agency action during review are limited.

Section 416. Records, Reports and Information.—This section authorizes the Administrator to require information, records and other access to information concerning the establishment of, and compliance with, noise emission standards. Subpoena powers are granted for obtaining information to carry out Title IV or Title V. Protection of proprietary information is provided only after a showing satisfactory to the Administrator that the information is entitled to such protection. Noise emission data are not entitled to proprietary protection under any circumstances. Criminal penalties for violations of requirements are included.

Section 417. Federal Procurement.—This section authorizes the Administrator to forbid Federal procurement contracts for persons convicted of criminal violations of this Act and is similar to provisions in the Clean Air Act and Federal Water Pollution Control Act.

Section 418. Grants for Support of Environmental Noise Planning and Programs.—This section authorizes the Administrator to make planning and program grants to State and local environmental noise control agencies. Before making program grants, the Administrator is required to determine that the State or local agency program includes adequate authority to regulate noise levels. Authorizations of $22.5 milion for three years are provided for this section.

Section 419. Development of Low-Noise-Emission Products.—This section authorizes incentive purchases of low-noise-emission products, similar to the program for cleaner motor vehicles under the Clean Air Act. Over three fiscal years, $5 million are authorized.

Section 420. Authorization of Appropriations.—This section authorizes a total of $104 million for the next three fiscal years ($18 million in FY 1973, $36 million in FY 1974, and $50 million in FY 1975) to implement provisions of the Act for other than State grants and the low-noise-emission product incentive purchases.

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TITLE V

Part A—Control and Abatement of Aircraft Noise and Sonic Boom

This part (section 501 through 508) provides that the Administrator of the Environmental Protection Agency shall promulgate standards for the measurement of aircraft noise and sonic boom, and regulations with respect to noise emissions from aircraft which in his judgment are adequate to protect the public health and welfare with an adequate margin of safety. Standards actually applicable to noise emissions from aircraft must reflect the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the cost of compliance, as jointly determined by the Administrators of the Environmental Protection Agency and the Federal Aviation Administration. Such standards can be promulgated only after the Administrator of the Federal Aviation Administration has determined that they are consistent with the highest degree of safety in air commerce, and technologically available for application to particular types of aircraft. Standards under section 611 of the Federal Aviation Act continue in effect until modified in accordance with this part. The implementation and enforcement of aircraft noise standards, through inspection and certification, is the responsibility of the Federal Aviation Administration.

Section 502 of this part directs the Administrator of the Environmental Protection Agency to conduct a one year study of a) the adequacy of FAA flight and operational noise controls; b) the adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phase out of existing aircraft; c) the implications of identifying and achieving levels of cumulative noise exposures around airports; and d) additional measures available to airport operators and local governments to control aircraft noise. The Administrator is required to submit his report and recommendations for legislation to the Committees on Public Works and Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives.

Section 508, on civil aircraft sonic boom, forbids commercial flights of supersonic aircraft over the United States and its territorial waters or the contiguous zone at supersonic speeds, but would permit research and development flights of supersonic aircraft. Enforcement of this ban under Section 412 of this Act is authorized.

Part B—Railroad Noise Emission Standards

This part (sections 511 through 514) provides a Federal regulatory scheme for noise emissions from surface carriers engaged in interstate commerce by railroad. The Administrator of the Environmental Protection Agency is required to publish within 9 months after enactment and promulgate within 90 days after publication noise emission standards for railroad equipment and facilities involved in interstate transportation, including both new and existing sources. Such standards must be established on the basis of the reduction in noise emissions achievable with the application of the best available technology, taking into account the cost of compliance.

Standards take effect after the period the Administrator determines necessary to develop and apply the requisite technology, and are im-

plemented and enforced through the safety inspection and regulatory authority of the Secretary of Transportation, as well as through Title IV.

Based on the interrelationship between the need for active regulation of moving noise sources and the burdens imposed on interstate carriers by differing State and local controls, the Federal regulatory program for railroads under this part completely preempts the authority of State and local governments to regulate such noise after the effective date of adequate Federal standards, except where the Administrator determines it to be necessitated by special local conditions or not in conflict with regulations under this part.

Part C—Motor Carrier Noise Emission Standards

This part (sections 521 through 524) provides a Federal regulatory scheme for noise emissions from motor carriers engaged in interstate commerce. The Administrator of the Environmental Protection Agency is required to publish within 9 months after enactment and promulgate within 90 days after publication noise emission standards for motor carrier operations involved in interstate transportation, including both new and existing sources. Such standards must be established on the basis of the reduction in noise emissions achievable with the application of the best available technology, taking into account the cost of compliance.

Standards take effect after the period the Administrator determines necessary to develop and apply the requisite technology, and are implemented and enforced through the safety inspection and regulatory authority of the Secretary of Transportation, as well as through Title IV.

Based on the interrelationship between the need for active regulation of moving noise sources and the burdens imposed on interstate carriers by differing State and local controls, the Federal regulatory program for interstate trucks and buses under this part completely preempts the authority of State and local governments to regulate such noise after the effective date of adequate Federal standards, except where the Administrator determines it to be necessitated by special local conditions or not in conflict with regulations under this part.

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MINORITY VIEWS OF MR. MUSKIE

The Environmental Noise Control Act of 1972 (S. 3342) was introduced on March 14, 1972 by Senator John V. Tunney and myself. That legislation was different than either the House-passed bill (H.R. 11021) or the Administration's bill, S. 1016, in purpose and intent. The bill which we introduced was not primarily designed to relieve product manufacturers from the effect of State noise pollution regulatory programs. Nor was it designed primarily to relieve transportation companies, particularly the airlines, from effective noise regulations.

Our intent was to establish a means to reduce, as rapidly as possible through the application of available control measures available, the exposure of people to noise by reducing noise at its source, by changing the way noisy products are used, by controlling noisy activities, and by such other means that are available.

Our bill was an environmental regulatory measure.We recognized that the regulation of noise would have an impact on commerce, but we also recognized that the purpose of regulation must be the reduction in the volume, intensity and character of noise to which people are exposed in their daily lives from sources over which they have no control.

While only recently recognized as a major environmental pollutant, noise may be one of the most perplexing. Unlike the common air and water pollutants, noise does not accumulate in the environment. Noise is not subject to collective treatment and reduction processes. And, noise is not subject to easy regulation. As a practical matter, the primary method by which noise will be reduced is through the application of noise emission control regulations at the source of sufficient stringency so that products will not, alone or in combination with other noise sources, present a problem.

To a degree, the legislation reported by the Committee moves toward this goal. Through the establishment of a regulatory mechanism which permits the Administrator to impose noise emission restrictions attainable through the application of the best available technology, the Administrator will have an opportunity to press the limits of our capability to reduce noise from new products.

The bill does not, however, provide adequate options in those cases in which best available technology is not adequate to achieve environmentally acceptable levels of noise. It does not recognize adequately the responsibility of States and local government to protect the environment in which their citizens live. It does not assure States an opportunity to ban the sale of Federally-regulated products which emit unacceptable levels of sound. At the same time, it does not expedite Federal regulation, thus holding out the hope of a quieter environment with no guarantee of early environmental improvement.

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By preempting State authority to restrict sale of noisy products, the bill places the burden on the consumer to take the risk of buying products which cannot be used in the manner intended at the time of purchase. The preemption provision limits State authority to restriction of the manner of use of noisy products regulated by the Federal government.

The Committee on Public Works is not unfamiliar with the problem of preemption. The Air Quality Act of 1967, which I sponsored, provided for Federal preemption of the authority to regulate air pollution emissions from new automobiles, except in California. That policy may have had an effect opposite of that which was intended. It appears that the preemption provision of that Act did not cause the auto companies to focus their research efforts and investments on one set of national standards. Rather, the auto companies' efforts have been focused on undermining those national standards.

Again in 1970, preemption was discussed in relation to regulation of air pollution emissions from aircraft. The Congress decided on a preemption provision effective on enactment and set deadlines for standards to be developed.

Section 231(a) of the Clean Air Act requires that the Environmental Protection Agency must begin an investigation of air pollution from aircraft within 90 days of date of enactment. Within 180 days after commencing that investigation, the Environmental Protection Agency is required to report on the investigation and propose emission standards for any class of aircraft or aircraft engines which contributes to air pollution which endangers public health and welfare. Ninety days thereafter (one year after enactment), EPA was to issue final regulations. The proposed standards were due nearly one year ago, September 27, 1971. Today, no report or proposed standards have been published.

This is a classic example of Federal preemption leading to Federal failure to protect public health. The Federal Aviation Administration has undoubtedly discouraged active efforts by the Administrator. And the efforts that the Environmental Protection Agency has made have run aground in the Office of Management and Budget.

Therefore, in consideration of the pending legislation, I expressed reservations regarding a broad preemption provision for product and aircraft emission standards. The States have moved actively in this field. Federal noise pollution responsibility is new and little significant authority or responsibility exists. Conversely, a number of States have regulatory programs which impose emission controls on noisy products which controls are enforceable, both at the point of sale and the point of use.

I cannot support Federal preemption which protects product manufacturers and the air transportation industry without effective regulatory programs which will enhance the quality of the environment. Substitution of Federal law for State law without assurance that public health will be protected is poor public policy.

The second point of concern with the legislation reported from the Committee has to do with the problem of aircraft noise and regulatory mechanism recommended to deal with that problem. To date, regulation of aircraft noise pollution has been the sole responsibility of the Federal Aviation Administration. The Federal Aviation Administra-

tion has had this responsibility since its inception. It has had a specific legislative mandate for the past four years. And its record is wholly inadequate.

I understand why the Federal Aviation Administration's response has been inadequate. The FAA's responsibility is not to reduce the environmental impact caused by aircraft noise. Its primary responsibility is to promote air commerce and to protect safety. Regulation of noise from aircraft is not consistent with that primary mission.

In the proposed rulemaking in January, 1969, FAA set forth a "noise floor" at 80 EPNdB as "an objective to aim for, and to achieve where economically reasonable, technologically practicable, and appropriate to the particular design" and went on:

> However, this objective is important because it makes it clear to all applicants that no increment of noise above 80 EPNdB can be considered acceptable, in and of itself, where it can be eliminated practically and reasonably. This figure is proposed as a reasonable boundary between noise levels that are high enough to interfere with communications and to obstruct normal life in homes or other buildings that are not designed with specific acoustical objectives, and lower noise levels which, while not completely benign, nevertheless allow those activities to proceed. Where this goal can be reached in a given case, and can be justified as economically reasonable, technologically practical, and appropriate to the particular type design, the FAA does not intend to ignore this potential reduction.

And yet, subject to industry pressure, the FAA dropped this 80 EPNdB "objective" from the promulgated regulations stating:

> The FAA has determined that the request to remove the noise "floor" of 80 EPNdB from the regulatory language is reasonable and should be granted. This noise floor, not being currently achievable, could have no immediate legal effect.

The attitude of the Federal Aviation Administration as regards regulation of aircraft noise was more clearly spelled out in the following excerpt from a draft report on noise pollution prepared by the Environmental Protection Agency:

> Both directly and by unmistakable inference, a number of important conclusions arise from the information gathered on Federal noise control programs.
>
> Most plainly, the control of unwanted sound is not a high priority issue for virtually any Federal agency or department. Only when an Agency's primary mission absolutely requires a commitment of time, manpower and funding to noise control to assure the smooth functioning of that primary mission (as with for instance, FAA and NASA) is even a modest venture into noise suppression undertaken. For the FAA, aircraft noise is only an annoying interference in the basic goal of the Agency: the most efficient, safest and swiftest air travel possible.

While this statement was deleted from the final report transmitted to the Congress, it is indicative of FAA's attitude toward noise from aircraft. Unfortunately, the bill, as reported, would continue dominance of the FAA. Not only would FAA have veto over safety of

noise reduction technology, but also EPA could make no judgment as to the availability of technology or cost of achieving noise reductions without FAA approval.

Continuation of the Federal Aviation Administration in a role of determining the degree to which noise emissions from aircraft will be reduced is not justified in the record. While the Committee bill takes steps to establish the Administrator of the Environmental Protection Agency as the determinator of those levels of aircraft noise required to protect public health and welfare, EPA will have little authority to enforce standards to meet those requirements.

Members of the Committee, including myself, recognized that aircraft were unique because of the safety requirements and the interrelationship of safety to the engine system. Therefore, I agreed with the Committee's judgment and supported the amendments of Senator Cooper and Senator Stafford which would retain the Federal Aviation Administration lead role in making any final determination as to whether or not any technology available to achieve noise emission levels would also be consistent with the highest standards of safety. The assumption that technology might not be available to meet noise emission goals combined with the assumption that technology could be vetoed because of FAA safety judgment, lead to the conclusion that there must be a mechanism to assure maximum pressure to develop safe technology while at the same time reducing the impact of noise in the environments of impacted airports. The Committee considered and rejected a provision that would have required achievement of health and welfare protective of noise levels in airport environments, whether or not specific aircraft engine emission control technology was available.

Without an action-forcing mechanism such as enforceable "cumulative noise exposure levels", neither FAA nor the airlines would have any incentive to press technology and achieve the goals EPA would be authorized to establish. A combination of cumulative noise levels and emission standards would create that pressure. Obviously if technology exists to achieve the levels of noise emission reduction to protect public health, achievement of emission standards would reduce any economic burdens on the airline industry caused by controls imposed to achieve cumulative noise levels. And such local environmental noise requirements would require a reduction in the number and frequency of flights if technology did not exist.

The Committee bill considered and rejected a provision which would have required the Administrator of the Environmental Protection Agency to identify any airports in the country with aircraft noise problems of a magnitude to cause a violation of cumulative noise exposure levels. The proposal defined "cumulative noise exposure levels" as those levels of noise in the environments of airports associated with aircraft operations which were adversely affecting the health and welfare of people around airports. Under these regulatory provisions, airports with significant problems would be the subject of a conference to determine the alternatives available to reduce exposure levels and protect health and property. Each conference would result in a report by the Administrator setting forth potential alternatives including flight and operational patterns, on-ground noise control methods, modification in the frequency and number of flights,

[p. 24]

modification in the hours of airport use, and land use methods. Each Federal agency including the Federal Aviation Administration and the Civil Aeronautics Board would apply existing authority to achieve maximum noise reductions possible through additional regulatory procedures.

But, most importantly, this provision would have imposed a positive burden upon the operator of the airport to exercise responsibility to regulate the number, the frequency and the hours of flight or to impose land use controls so as to eliminate noise as an environmental problem in the area of that airport. And the airport operator's duty and responsibility to carry out such responsibilities would be established by statute.

This concept is not unique. In 1970, the Congress enacted legislation which requires a development of a clean car by 1975. That law recognized that reliance on technology alone would not result in elimination of auto-related pollution as a health hazard until existing vehicles were off the road—perhaps mid-1985 or later. Therefore, the bill established a procedure to regulate the use of automobiles in areas in which automobile-related air pollution was unacceptably high to assure that public health would be protected at an early date (in this instance, 1975–1976).

The combination of emission reduction technology and air quality implementation plans have proved to be a useful mechanism both to improve air quality and to apply pressure on local governments to seek alternatives to reliance on motor vehicles. Also, this mechanism will apply pressure to the auto industry to develop clean cars if they wish to preserve existing markets.

I suggest that this mechanism can and should be applied to aircraft related noise problems. I suggest that it recognizes the limitations of technology while providing a means to protect the health and welfare of those seven and a quarter million people who live in airport environments and who are adversely affected by aircraft noise. I suggest to do anything less in this legislation is to fail to meet responsibly the demands of the American public for a safe, healthy and peaceful environment.

Without a provision of this type, I believe the bill to be inadequate. Without a provision of this type, the bill does not address in meaningful way the real problem faced by people who are confronted now with unacceptable levels of aircraft noise. The reported bill would force these people to wait for emission control technology to be developed and applied to new and existing aircraft, or on the courts to impose sufficient penalties or damaged claims against the airlines and the airport operators for creating a public nuisance before relief will be achieved. To turn over to the courts the responsibility of making ad hoc decisions to solve environmental noise problems is equally unacceptable. I think it is inadequate to rely on claims for damages, penalties against the airlines and injunctions as a substitute for positive regulatory programs.

Mr. President, I think it is inadequate to enact a Federal law which ignores the most basic and most significant problem of noise as perceived by people.

On September 5, Senator Tunney, in remarks on the Senate floor, pointed out that aircraft noise was adversely affecting the hearing

capacity of school children in the vicinity of Los Angeles Airport. Senator Tunney said:

> According to the report, continuous exposure to a 90-decibel level is a health hazard and peak jet noises in the seven schoolyards surveyed ranged from 95 to 115 decibels. In the classrooms of those schools, jet noises resulted in levels of from 80 to 96 decibels, which, in one example, prevented childern from distinguishing among the words "where", "we're", and "wear', because they could not hear the difference in sounds. To the physical and emotional effects from excessive noise must be added these problems in vocal response. Already, two schools around the Los Angeles Airport have been forced to close.

But the Administration wants a bill. Environmental Protection Agency Administrator, William D. Ruckelshaus, told the Committee on Public Works in executive session in September of this year, that he was not interested in the merits or the demerits of noise pollution legislation which might be forthcoming. He said the Administration wants a bill and he did not care what provisions that bill included.

This fact, combined with the decision of the Senate, that no controversial measures reported after September 15 would be considered on the floor, has resulted in an inadequate bill. These inadequacies must be corrected before the Senate concurs.

EDMUND S. MUSKIE.

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CHANGES IN EXISTING LAW

Subsection (4) of the rule XXIX of the Standing Rules of the Senate requires that changes in existing law proposed to be made by any reported legislation be plainly indicated in the accompanying report.

Title IV of the Clean Air Act (42 U.S.C. 1857 et seq.), added to the Act in 1970 by P.L. 91–604, provides for the creation of an Office of Noise Abatement and Control within the Environmental Protection Agency, to carry out a comprehensive study of noise and its effect on the public health and welfare. A report on the results of such study was required within one year after enactment, and such a report was submitted to the Congress in January of 1972. Title IV also provides that any Federal agency shall consult with the Administrator to determine possible means of abating noise from Federal activities, and authorizes $30,000,000 for carrying out the purposes of the Title.

S. 3342 would completely replace Title IV of the Clean Air Act as it presently exists and add a new Title V. Only the authority for an Office of Noise Abatement and Control in the Environmental Protection Agency and the responsibility to carry out a continuing investigation of noise and its effect on the public health and welfare would remain, in subsection (a) of section 403.

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APPENDIX

Responses to Letter From Senator Tunney Concerning Establishment of a Mandatory Schedule for Achieving Reductions in Aircraft Noise Emissions

[*Letter from Senator Tunney to which the following are responses*]

SEPTEMBER 8, 1972.

Mr. JOHN H. SHAFFER,
Administrator, Federal Aviation Administration, Department of Transportation, 400 Seventh Street NW., Washington, D.C.

DEAR ADMINISTRATOR SHAFFER: As you know, the Senate Public Works Committee has been marking up a noise pollution control act (S. 3342) which I introduced with Senator Muskie in March, 1972.

In the context of provisions respecting control of aircraft noise, it has been suggested that a retrofit schedule be established in the legislation. In order to meet the deadlines, aircraft which could not be retrofitted economically could be retired and replaced by the new generation of quieter aircraft already under construction.

Suggested language to be added to S. 3342 would provide that no aircraft could land at U.S. airports after January 1, 1976, unless such aircraft complied with the maximum noise level standards in Appendix C of Part 36 of the Federal Aviation Regulations (i.e., 108 EpndB). New aircraft types manufactured after date of enactment would be required to meet best available technology, or, at a minimum, a noise level 15 EpndB lower than the Part 36 standard by January 1, 1975. Additionally, the EPA Administrator would be required to identify further noise reductions which would be contemplated thereafter.

Because of the press of Committee business and the short time left in this session of Congress, I am writing to solicit your views on this subject which, I am aware, has been discussed in the context of previous legislation and subjected to considerable study in the industry and Administrative agencies.

Specifically, I hope you will address yourself to the current state of technology respecting retrofit (and will consider new front fan treatment in addition to nacelle treatment), costs of retrofit or retirement and replacement and suggestions as to which procedure might be more appropriate for certain types of aircraft, necessary lead times, alternative specific language which could be inserted in the legislation.

If I could receive your comments by Monday, September 18, I would be in a position to advise my colleagues on the Committee of your views. I recognize that you are not given much time in which to respond, but I hope that you will be able to cooperate with us. Cor-

respondence should be brought to the attention of Mrs. Jane Frank, my legislative assistant.

Thank you for your prompt attention to this matter. The Public Works Committee will meet on Tuesday, September 19, and I would hope that we will be able to report the bill to the Senate floor at that time.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

AIRPORT OPERATORS COUNCIL INTERNATIONAL, INC.,
September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for the opportunity to comment on your proposal that the Noise Pollution Control Act (S. 3342) include language which calls for either the retrofitting or retirement of noisy aircraft that do not meet FAR 36 maximum noise requirements by January 1, 1976. Your proposal also specifies that new aircraft types manufactured after the date of enactment would be required to meet the best available technology or, at a minmum, a noise level 15 EPNdB lower than the Part 36 standard by January 1, 1975. Airport operators believe this is an excellent approach. We have long recognized that aircraft noise pollution constitutes a primary constraint upon the U.S. aviation system.

The proposal to include a specific date at which time all aircraft must meet or better the noise levels of FAR Part 36 is an absolutely essential component of any noise abatement plan. Progress in noise reduction will be made only if specific future goals are set now, and adhered to by those Federal agencies charged with the responsibility of reducing aircraft noise.

Although the NASA and Rohr studies of 1969 and 1970 clearly indicated that the technology existed to retrofit existing aircraft, the FAA began another comprehensive study regarding retrofit. These studies are nearing completion. A flight test of the retrofitted 727 will take place this fall with a final report due in the first quarter of 1973. A flight test of a retrofitted 707 will take place during the summer of 1973 with a final report due in the fourth quarter of 1973. Contracts have been awarded for studies of the DC–8 and DC–9 with their completion dates scheduled for late 1973. A contract for the study of retrofitting the 737 will be awarded this fall with the completion date as yet undecided. Preliminary test results from the above studies, that is static ground tests and other acoustical data, indicated that it is technologically possible to retrofit aircraft to meet FAR Part 36. These studies strongly support your proposed additions to S. 3342.

While it is clear that the technology exists to mandate retrofit, the decision to either retrofit or retire should be left to the individual airlines. The language that is suggested would permit the owner of the aircraft to consider any option, that is, retrofit, retirement or other conforming use. We do not believe that the airlines can be burdened with the costs of retrofit or retirement to an extent that would seriously impair their financial position. It is very important that this country

have a financially healthy national air transportation system. Several different approaches exist for providing financial assistance to an aircraft owner if that assistance is needed or requested. They include: accelerated tax depreciation benefits, Federal funding and loan guarantees, or a small increase in passenger ticket and cargo waybill user charges for the short period of time required to assist in financing the above options. Another economic consideration which must be considered is the great boost that a decision to retrofit, or replace noisy aircraft, would give to the sagging aerospace industry. We believe that your second concept requiring that new types of aircraft manufactured after January 1, 1975 meet either the best available technology or, at a minimum, a noise level 15 EPNdB lower than Part 36 is a laudable goal.

In summary, we believe that the proposal to require that all aircraft after January 1, 1976 meet FAR Part 36 is an excellent one. We further support the proposal for setting a goal of reducing the noise by 15 EPNdB within three years. I would refer you to our more detailed presentation before the Subcommittee on Air and Water Pollution on April 13, 1972 at which time we discussed at some length our support for these proposals. There must be action now to reduce aircraft noise pollution. We believe that the best way to accomplish this without incurring further delays is to mandate the agency which is conducting investigations and studies in this field at this time to issue such regulations. This would be the Federal Aviation Administration. Further delays in the implementation of aircraft noise regulations only increase the grave threat that noise pollution presently poses to our national air transportation system.

Sincerely,

J. DONALD REILLY,
Executive Vice President.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY,
New York, N.Y., September 18, 1972.

Hon. JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR TUNNEY: Thank you for your letter of September 12, concerning proposed changes to the noise pollution control bill (S. 3342).

We believe that language such as that suggested in your third paragraph is essential if the new bill is to result in timely and effective reduction of aircraft noise. The best information available to us indicates that January 1, 1976 is a reasonable target date for a retrofit program if action is started now. Of critical importance, however, is the development of a financing program for the capital required to accomplish retrofit. Without Federal Government leadership in this area, I am afraid that retrofit will be jeopardized.

The suggested limit of 15 EPNdB below FAR Part 36 seems excessive for the present state of the art. The joint DOT–NASA "CARD" Study indicated that a 10 dB reduction seemed feasible within 10 years. We suggest that, in the language of Part 36, new aircraft for which *application* for a type certificate is submitted on or

after January 1, 1975, be required to meet noise levels at least 10 EPNdB lower than those of present Part 36. Only by early action of this sort can the public be assured that developing technology will be applied to further noise reduction rather than increased payload and range.

Thank you for the opportunity to comment on these aspects of S. 3342.

Sincerely,

NEAL R. MONTANUS.

CITY OF SAN JOSE,
San Jose, Calif., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senator,
Washington, D.C.

DEAR SENATOR TUNNEY: Your letter of September 8, 1972 to Donald Reilly of Airport Operators Council International relative to S. 3342 has come to my attention. I enjoyed our meeting at Oakland Airport when you met with RASSC relative to our Bay Area Systems Study. I feel rather strongly on the subject and would like to comment further.

I would like to offer you a summary of recommendations, my credentials, and discussion giving reasons for the recommendations. In summary, it is technologically and economically feasible to accomplish these recommendations. It is specifically recommended that:

1. FAA be required to establish a retrofit trust fund with the monies to come from a national enplanement tax levied against the air passenger;

2. That the FAA establish a formula for paying for the retrofit, said formula to consider cost of retrofit and tax credits;

3. The retrofit program be as follows:

(a) That existing aircraft not now meeting FAR 36, be required to have nacelle retrofits and meet FAR 36 by January 1, 1976, with funds from the trust fund;

(b) The same aircraft be required to re-engine or incorporate the new NACA front fan treatment by January 1, 1979, with funds from the trust fund;

(c) That both (a) and (b) may be accomplished by January 1, 1976 if desired by the air carrier, with total payment to come from the trust fund formula;

(d) That in lieu of retrofit, an air carrier may choose to retire existing aircraft from service, in favor of purchasing new, quieter aircraft, and that in such cases, the equivalent of retrofit be awarded from the trust fund to the air carrier toward purchase of the new aircraft;

4. That any language relative to new aircraft be explicit to include new aircraft, regardless of country of manufacture.

As to my credentials, I graduated from the University of California at Berkeley, with a BS degree in Mechanical Engineering, with an aeronautics option. I am a registered Professional Engineer in the State of California. I served four years as a naval aviator, flew airline with Pan American, spent five years as an experimental test pilot with the National Advisory Committee for Aeronautics (now NASA) and North American Aviation, and twenty-five years as Airport Manager. I served as an airport representative on the Aeronautics and

Space Engineering Board ad hoc study advisory committee which resulted in the joint DOT/NASA civil aviation R&D policy recommendation. I have kept in close contact with my former associates at NASA and feel I have fairly good knowledge of the state of the art of research and development.

To solve the problem, we ask what is technologically and economically feasible. The airlines say they cannot afford to retrofit and they cannot. We would take the position and state that aircraft must be retrofitted (including new front fan treatment) by a given date, then if we say how to finance it, we will have the solution. The NASA–GE quiet engine research program has yielded noise reductions greater than anticipated when the contract was let. We know that noise can be reduced to about one-fourth of what it is now and, in the case of the 707 and DC–8 aircraft, the noise footprint under the 90 PNDB contour can be reduced from the present 47,500 acres to about 3,000 acres. If all air carrier aircraft today were equipped with this new generation of quiet engines, I believe that every air carrier airport in the United States would be environmentally acceptable from a noise standpoint. This then states that by some year, say 1985, we will have an environmentally acceptable industry. The problem is, then, how do we live until that time. I believe that a strong, firm act by the Federal Government, such as you are proposing, is our only salvation.

We have plotted the noise contours for the San Jose Municipal Airport and have determined that we can meet State of California noise requirements, and have no residency inside the 65 CNEL curve by purchasing houses in the immediate vicinity of the Airport, and by having all aircraft equipped with the new generation of quieter engines. Thus, the current state of technology has reached the plateaus of offering known solutions. With continuing research, even greater strides can be made for the future.

If your bill would provide the means of financing retrofit, then it might offer a clearer method of solving the problem. If society has to pay for noise reduction, then the user should be given the opportunity to pay for that reduction. A passenger head charge of say $1.00 per passenger would currently generate some 175 Million Dollars annually. The money could be borrowed against this revenue which yields 1.75 Billion Dollars. I agree with James Carr that the airline passenger should be given the chance to pay to reduce the noise and thereby improve the environment.

The acoustically treated nacelle and the new treated front fan installation could be financed by this method by having the FAA levy an enplanement tax, with the proceeds to go to a trust fund to pay for the retrofit. As James Carr has pointed out, the equivalent of the retrofit cost could be given to an airline if a noisy aircraft is retired, and new aircraft meeting new noise standards is purchased. This is an economical and not a technological problem. This alternative would help modernize our air fleet and would stimulate our air frame and engine industry.

For the above reasons, I support the addition of language that requires all aircraft to meet Part 36 by January 1, 1976. We know how to do it and it can be financed by a user tax.

I think there might be some problem in requiring retrofit of aircraft manufactured after date of enactment to meet the noise level

of 15 EPNdB by 1976. I would suggest that 10 EPNdB by 1975 would be more realistic criteria. If the criteria is too severe and applies only to new types of aircraft, it might tend to discourage design and development of new aircraft unless some premium or assistance were offered. It would be more economical to continue to manufacture the same aircraft. I suggest that the language state that *new* aircraft manufactured after January 1, 1976 be clarified to include aircraft, regardless of country of manufacture, or the foreign manufacturers would have an unfair advantage over United States manufacturers.

I further suggest that the 707 and DC–8 aircraft can be reasonably retrofitted with acoustically treated nacelles, and retirement may be more attractive than subsequent engine retrofit; however, that would be the airline's decision. The B–727, 737 and DC–9 are expected to be with us well into the 1980's. I suggest that the nacelle retrofit as you propose be required by January 1, 1976 and that the new NACA front fan be required by January 1, 1979, with the airline having the option of doing both by January 1, 1976 if they desire, with payment being made from the new trust fund. This would result in a mix of aircraft that by 1980 would consist principally of a re-engine 727, 737 and DC–9, wide body jets and some new aircraft with the new generation of quiet engines. The DC–8 and 707 will probably be retired in favor of the new aircraft with quieter engines. This would result in a positive program that would stimulate the aircraft industry and would give the general public which must endure the noise relief with programmed reduction for the future. The user would pay the tab and the United States would set the pattern for the rest of the world to follow. The rest of the world to follow. The rest of the world is waiting for the United States to come to grips and solve the noise problem before they take a hard stand. This has come to light at international meetings on the noise problem.

Specific recommendations were presented at the start of the letter and I appreciate the opportunity to offer my comments to you.

Very truly yours,

JAMES M. NISSEN,
Airport Manager.

GENERAL ELECTRIC CO.,
West Lynn, Mass., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

Attention of: Mrs Jane Frank, Legislative Assistant.

DEAR SENATOR TUNNEY: I am pleased to respond to your letter of September 8 addressed to Fred J. Borch requesting specific comments on the current state of engine noise technology with respect to retrofit of the older aircraft types, retirement of these aircraft and their replacement by the new quieter types, the appropriateness of the FAR36 noise standard for all aircraft landing at U.S. airports after January 1, 1976 and FAR36 minus 15 EPnL for new aircraft types by January 1975. I have not attempted to address myself to the specific language of vour Bill but rather to the basic issues raised in your letter.

As you indicate in your letter, different approaches to the noise problem may be appropriate for the different classes of aircraft.

[p. 34]

I believe that the 707/DC8 fleet represents the greatest problem and is the main source of complaints (for such major airports as JFK and Los Angeles). The first attached noise footprint chart illustrates this problem. I am not aware of any practical way to retrofit their current engines by nacelle treatment alone to achieve FAR36 noise. NASA is now financing a technology program to test a redesigned fan section for these engines which might show the technical feasibility of retrofitting the 707/DC8 with these quieter engines plus new nacelles and reversers. While we believe that it might be technically possible for such substantially modified engines and nacelles to meet FAR36, we believe this approach will prove to be a very poor investment for the industry and the Government. These airplanes are already obsolete.

A much better and proven solution to the 707/DC8 noise problems already exists in the DC10/L1011/ and 747 series of wide-body jets. These modern aircraft, incorporating the latest in noise reduction and smoke reduction technology have already been certified at noise levels below FAR36. The aircraft types using the General Electric CF6 engine in the 1971–1976 time period including the DC10–10, DC10–30, 747–300, and A300B have noise levels ranging from 3 to 7 EPnL below FAR36 on a traded basis. This is a huge improvement over the 707/DC8, as shown in the second chart attached, and is much quieter than is possible with 707/DC8 engines retrofitted with new fans, nacelles, and reversers. I believe that it would be much more sensible for the Government to find ways to accelerate the retirement of these old aircraft in the 1973–1978 period and replace them with the modern quieter aircraft available.

The smaller aircraft such as the 727/DC9/737 can be approached in a different way. We believe it is possible for this class of aircraft to have their nacelles modified in such a way that FAR36 can be met and that their noise footprints could be reduced with proper consideration of takeoff and approach aircraft operating procedures (such as power cutback and 2 segment approaches). Whether engine retrofit of the existing aircraft fleet is sensible is another matter—particularly if the dominant 707/DC8 noise can be handled by replacement with available quiet wide-body transports, and if 727/DC9/737 noise footprint areas can be ameliorated by operating procedures alone.

With regard to the retrofitting of the 727/DC9/737 fleet with their existing engines rebuilt with new larger fans (development of which is now funded by NASA) plus new nacelles and reversers, we believe that this approach will also prove to be a very poor investment for its incremental noise improvement. Here again, it appears to me that the wiser and more effective solution lies in the new aircraft types using high bypass turbofans such as the CF6 or the new 20–25 000# thrust turbofans now under consideration which will replace the 727/DC9/737 fleet. Typical noise levels for such new aircraft are shown on the third chart.

These new twinjets and trijets in the 150–180 passenger short to medium haul category certificated in the 1976–1978 period may be able to meet FAR 36 minus 10 EPnL. Although this has not yet been achieved in an economically attractive way, it is our goal and we are making progress toward it. We consider FAR36 minus 15 EPnL

out of reach for the 1970's, and furthermore, doubt that there is a need to achieve this level when operating from current airports.

In summary, I would like to emphasize that I believe that the real problem of resolving the current noise situation with respect to meeting FAR36 on any accelerated time schedule such as you propose is primarily one of economics—not technological. This real problem is not being addressed, in my opinion. The DC10/L1011/ and 747's can solve most of the public problem—the question is how to get many more of them in service sooner. Revised aircraft operating procedures can help 727/DC9/737 noise now, newly manufactured 727/DC9/737 could have nacelle treatment added and new types of short and medium haul twinjet/trijet transports with high bypass turbofans will completely solve the noise problem posed by this class of aircraft in the post 1976 period. The U.S. Government should concentrate more on helping to modernize the U.S. fleet with new wide-body high bypass turbofan powered transports than on the modification and retrofit of obsolete engines and aircraft. If such a solution can be found, it would be the best solution for noise, pollution, passenger comfort, U.S. sales/jobs/balance of trade, and the general health of the aircraft and airline industry.

Sincerely,

GERHARD NEUMANN.

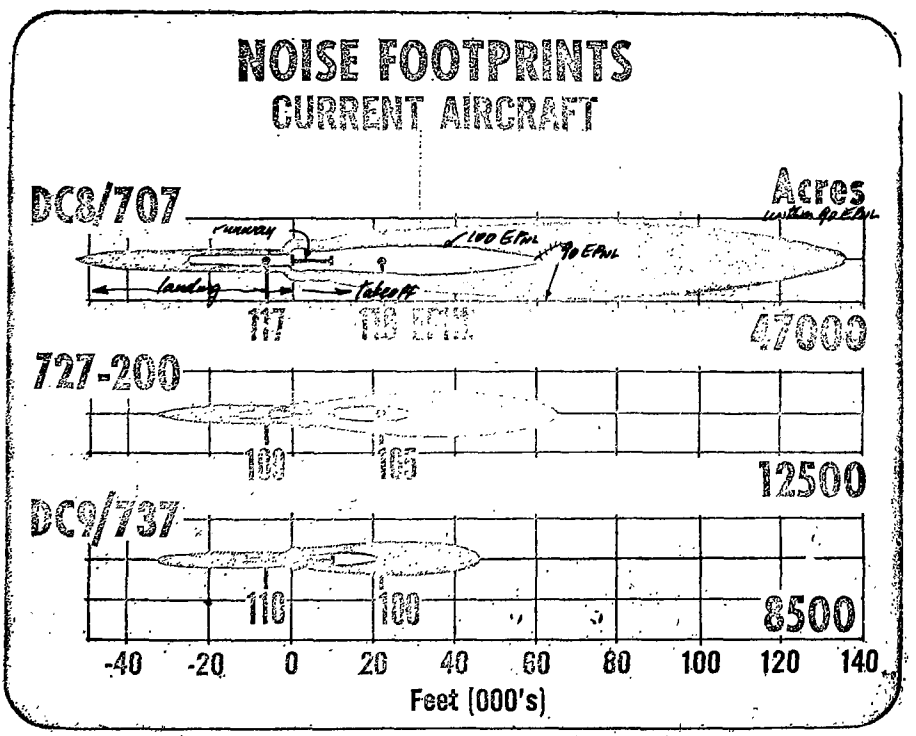

FIGURE 1

[p. 36]

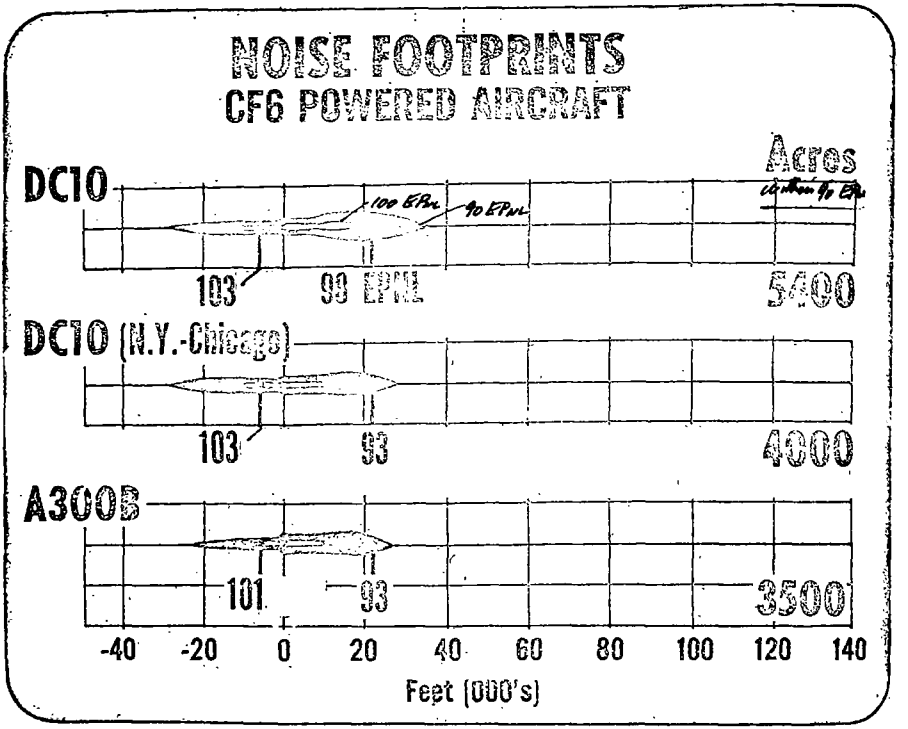

FIGURE 2

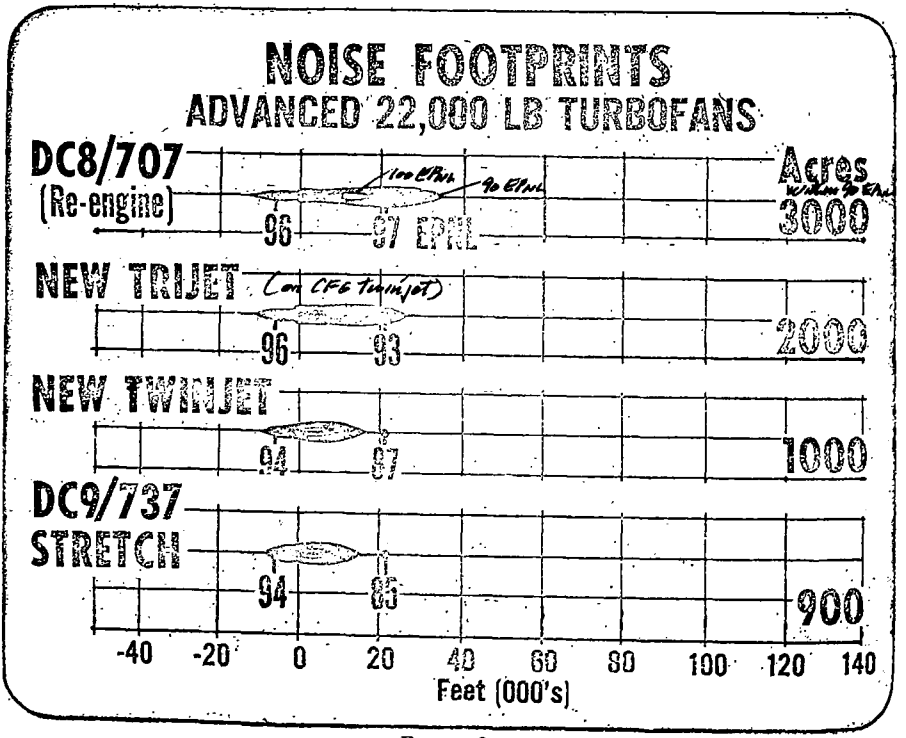

FIGURE 3

[p. 37]

GILBERT, SEGALL & YOUNG,
New York, N.Y., September 14, 1972.

Senator JOHN V. TUNNEY,
Committee on Public Works,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I have your letter of September 8, 1972 concerning S. 3342. Unfortunately, this did not reach me until yesterday, after being forwarded through Washington and New Jersey. You will recall that your letter was addressed to me as President of Rolls-Royce, Inc., 45 Rockefeller Plaza, New York, New York, 10020. Rolls-Royce, Inc. has since 1969 had no connection with aviation, and is strictly an importer and distributor of Rolls-Royce and Bentley motor cars. It has not been located at 45 Rockefeller Plaza for some years, and I no longer have any association with it or its parent company in England.

I am, however, U.S.A. counsel for Rolls-Royce (1971) Limited, of London, Derby and Bristol, England, which is the successor to the gas turbine business of Rolls-Royce Limited, and for its subsidiary, Rolls-Royce Aero Engines, Inc., of which I am also a Director. The address of Rolls-Royce (1971) Limited headquarters is 14–15 Conduit Street, London W1A 4EY, England. The address of Rolls-Royce Aero Engines, Inc. is 551 Fifth Avenue, New York, New York 10017.

Since receiving your letter yesterday I have learned from Mrs. Frank and Mrs. Deller that the time schedule has been speeded up so that you require comments by Friday, September 15, 1972, rather than Monday, September 18. I had hoped to make a truly useful reply to your inquiry, but unfortunately the time is really too short to do this.

Perhaps, however, I can respond in a general way to certain aspects of your inquiry.

1. It would appear to me that noise limitations upon the operation of aircraft should remain with the Federal Aviation Administration rather than the EPA. I say this because the nature of the problem requires careful consideration of problems far beyond the normal concerns of the EPA. From the nature of the matters to which your letter addresses itself I infer that, to some degree, you may agree. I suggest, therefore, that the bill should not vest sole authority in the EPA, but should leave it primarily in the FAA which is currently engaged in very comprehensive studies of all aspects of the problem.

2. I would not think that it would be wise to provide by statute that no aircraft can land at U.S. airports after a fixed date unless certain specific noise level standards are met. Rather, I think that the authority to fix and enforce noise level standards should be left primarily to the FAA. To impose a rigid statutory rule with rigid dates would, to my mind, lead to very unfortunate complications, both with respect to the entire aviation industry and all U.S.A. commerce, and with respect to the commercial relations between the U.S.A. and foreign countries into which U.S. carriers fly.

3. Similarly, because of the complexity of the problem I would not think that the imposition by statute of arbitrary noise limits would be desirable. Rather, I would think that the best results would be obtained by leaving the matter primarily to the FAA, which is the

expert public agency capable of taking into account all of the necessary considerations. Further, the dates and standards the bill would set appears to me to be very optimistic on the basis of present knowledge, though I recognize that predictions in this area are very difficult.

4. As to your specific inquiries, it is not possible on such short notice for me to give you useful responses. Beyond that, I do not believe that there is sufficient data presently available concerning retrofit, the cost of retrofitting, lead times and procedures respecting specific types of aircraft. One can only be sure that retrofit of older aircraft, including, as you suggest, new front fan treatment, would be enormously costly and disruptive, but it would be premature to make any dependable estimate along these lines. Rolls-Royce, of course, like other engine manufacturers, is expending great efforts with respect to those of its engines which power commercial aircraft. These include the Spey engine on the BAC 111 and Gulfstream II (efforts concerning the Spey being the subject of an article in Aviation Week for September 4, 1972), the Dart, which powers various types of aircraft, including the FD27, the Grumman Gulfstream I, the Viscount and others. The Conway engine, which is installed on the VC–10 and certain models of the Boeing 707 and Douglas DC–8, is not in service with any U.S. airline. All of the aircraft powered by Rolls-Royce engines do, however, utilize U.S. airports in international travel. The RB 211, which is installed on the Lockheed L–1011, is, of course, a new technology high thrust engine with outstanding noise characteristics, and it does not, I believe, fall within the ambit of your inquiry.

In a nutshell then, aside from my being able to make the remarks above, I do not think that there has been time enough to collect reliable data and to put it in a usable form for you. I am not at all sure that even if more time were available I would be able to give you comparative costs of retrofit and retirement and replacement, nor do I believe that I could make informed comments concerning aircraft which are powered by engines other than Rolls-Royce. I regret that I cannot do more at this time. If developments are such and the time available is expanded so that we can be of assistance in the future, and if we can be given sufficient advance notice to permit the development of appropriate data, we shall certainly do our best to assist you in any way we can.

Yours sincerely,

PHIL E. GILBERT, Jr.

LOCKHEED AIRCRAFT CORP.,
Burbank, Calif., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Committee on Public Works,
Washington, D.C.

DEAR SENATOR TUNNEY: We at Lockheed have been doing everything in our power to see that our new L–1011 transport has as low a level of noise as can practically be reached, and we are working hard with propulsion manufacturers and NASA seeking out any new ideas which will improve urban acceptability of future airplanes. I think

we have demonstrated that a new "good neighbor" transport can be developed without destroying the inherent efficiency which has made our air transport system a mainstay of the national economy, and our aircraft the major element in sustaining our international balance of trade. I believe that the low certificated noise levels and our worldwide demonstrations of the L–1011 attest to the success of our efforts.

We appreciate the opportunity which you have afforded us to contribute our thoughts toward rational legislation for improving the over-all acceptability of an airport within a community, and we recognize that more must be done. Addressing the points which you have outlined in your letter, we have the following comments:

State of Technology

Knowing that we would have to work within the framework of legislation and regulations when we first addressed the problem of reduced aircraft noise, we, with the rest of the Industry, pointed out that it was impossible to create products with design lead-times of three to five years, followed by production durations of ten to fifteen years, against a "floating target" for required noise performance.

Although our L–1011 has bettered current noise standards by several EPNdB, we see no reasonable way to achieve a 15 EPNdB improvement over Part 36 as your letter suggests. We have no promising clues to pursue and must await the results of research programs that have as yet not been formulated. The CARD Study done by the Department of Transportation suggested the possibility of 10 EPNdB below Part 36 might be possible in 1980. We believe that this is a reasonable target for certification of a new airplane, even though we still do not know how to achieve this goal with a practical design.

In our efforts to set targets for incorporating improvements as the state of the art changes, the legislation should identify potential *certification* dates rather than new airplane *delivery* dates. It is not clear in your letter whether "new aircraft types manufactured after date of enactment . . ." refers to any new airplane or only to new airplane types *certificated* after enactment. If it means "all new aircraft manufactured" this will result in the shutting down of programs which fulfilled all regulations at their inception, and for which contracts have been entered into.

Specific Requirements for New Aircraft

Your suggestion that the regulations be lowered 15 EPNdB for any new aircraft type manufactured after date of the enactment of the legislation leads to major inconsistencies in the permissible noise levels of "old" and "new" aircraft. It would:

a. Allow the manufacture and operation of older type airplanes indefinitely utilizing a refanned powerplant or modest suppression techniques only meeting Part 36 noise requirements.

b. "New aircraft types", on the other hand, would have to meet a sound level 15 EPNdB below Part 36 by January of 1975. This would, in effect, force redesign of current wide-bodied aircraft now sold, all of which have utilized everything practically available in the state of the art to improve noise performance. In Lockheed's case, this

would affect 100 to 200 airplanes which now are under firm contracts, or second buys, or additional follow-on airplanes from present customers.

c. If your reference to "new aircraft types manufactured. . . ." actually means "certified" after enactment, there is still a major problem with new versions of present designs, such as twin conversions, long-bodied modifications, extended range conversions, and similar models. These would all have to incorporate entirely new powerplants, and since we do not know how to meet a 15 EPNdB reduction, any such extension of our current models would be effectively stopped.

RETROFIT

Although Lockheed does not have current large transport aircraft which exceed the maximum noise level standards of Appendix C of Part 36 of the Federal Aviation Regulations, we recognize that most of the existing operational transports and some current production transports and business aircraft produce noise levels well above the regulations.

We also recognize that the airlines are in no financial position to modify these airplanes, even if a powerplant existed which would bring them into full compliance. The extent of the problem is dramatized by the estimates of research and development for such a powerplant installation that vary between $100 million and $200 million. To this must be added retrofit costs that approach $2 million for each four-engine transport. It is our estimate that between 400 and 500 of these airplanes would still have a useful economic life by January of 1976, all of which suggests that development and retrofit costs might approach $1.25 billion to bring these aircraft into noise compliance—a cost which the airlines and the aircraft manufacturers could not afford without major compensating increases in revenue.

This estimate does not include retrofit of the smaller twin and trijet transports which would certainly average $300,000 to $500,000 per aircraft. We estimate that approximately 1300 of these would still have an economic future in January 1976, and retrofit of this number would therefore be nearly another $700 million.

By introducing these costs, we do not wish to leave the impression that we oppose retrofit; we only want to emphasize the financial impact of the legislation which you propose, and to suggest that normal channels for financing such an endeavor do not exist to our knowledge.

It is our opinion that the best approach to retrofit is by the use of a new fan on existing four-engine aircraft to increase the bypass ratio of the powerplants. We believe that the alternate concept of massive muffing of present powerplants which are inherently noisy leads to major cost burdens and inefficiency as well as excessive operational difficulties. This same comment holds true when the use of similar massive suppression is proposed to achieve the very last dB for more modern engines which are quiet to begin with. Modern high bypass engines could, indeed, be further suppressed, but the noise alleviation is so small that it probably would be unrecognizable by the community. Furthermore, it is obtained at a cost in operational economy which will make new aircraft unattractive to domestic investors and foreign purchasers alike.

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In summary, we recognize and applaud the natioanl emphasis on aircraft noise reduction. The Industry, without special financial assistance from the Government has made monumental efforts to respond, and is now delivering "quiet" aircraft which have retained the earning power to make them attractive to domestic and foreign airlines. The problem now is to bring the existing airline fleet into compliance with the new noise standards which have already been set. This will require Government financing in some form, and the dates for accomplishment must be compatible with this financial support to prevent a disastrous turmoil within our air transport system. We urge that the creators of new legislation recognize the strides we have made, and address the real problem of making our existing fleet suitable for the community. We also urge that the setting of goals for future development remain with the FAA (DOT), ably supported by the technical talent within NASA.

Very sincerely yours,

D. J. HAUGHTON,
Chairman of the Board.

THE BOEING CO.,
Seattle, Wash., September 18, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate, Committee on Public Works,
Washington, D.C.

DEAR SENATOR TUNNEY: Your letter of September 8, 1972, poses many complex questions that are of vital interest to all parties concerned with aircraft noise. The timing of your request and the complexity of the questions make complete answers difficult if not impossible. My first impression is that passage of a law with the language as suggested in your letter would inevitably bring air transportation, as we know it today, to a standstill.

My second impression is that legislating technology and schedule of accomplishment is unsound. There exists today industry and government sponsored research work aimed at producing a valid decision-making base. It is not clear how new legislative acts can establish both levels and schedules for noise reduction before government and industry can develop the technology required to do the job. It seems there is risk of establishing a law that is not enforceable.

Your proposal to require all aircraft landing at U.S. airports to meet Appendix C noise levels by January 1, 1976, could have a far reaching impact. It would stop a major portion of domestic and international air service. There is no apparent way the current JT8D and JT3D fleet of commercial aircraft could be retrofit or replaced by January 1, 1976, as you suggest, regardless of research and development funding or monetary support to the airlines.

The suggested 15 EPNDB reduction by January 1, 1975, cannot be commented on unless the specific meaning of "new aircraft types manufactured after" is interpreted. If this includes 747, DC–10 and L–1011 aircraft types, it would stop production of these new quieter airplanes. If the requirement applies only to future new type designs, it would stop development of new designs until that required noise reduction technology could be developed. Although certainly later than 1975, the timing for this accomplishment is unknown and is completely dependent upon an adequately funded research program. In either case,

the noise reduction capability to accomplish this objective does not exist today.

Boeing is taking part in both the nacelle retrofit feasibility program and the new front fan program. Our original estimate for the required new front fan R&D was for about 130 million dollars. We most emphatically endorse pursuing the new front fan concept because of its great promise for meaningful noise reduction as well as airplane performance improvement. However, we are extremely concerned that a partially funded program will not produce timely results.

As you may know, the Aerospace Industries Association (AIA) has been opposed to giving prime responsibility to the EPA for prescribing and amending aircraft noise standards. We consider it inadvisable and potentially dangerous to the traveling public, as well as those living under flight paths to give authority to a new agency to rule on matters that can affect flight safety. Today air transportation has an enviable flight safety record and no action should be taken that puts this in jeopardy.

I share the frustrations that exist relative to the noise problem. Currently we have over 400 scientists, engineers and technicians at Boeing directly involved in noise reduction research and development. The attachment to this letter contains a summary of expenditures at Boeing since 1958 on noise reduction research. Over 43 million dollars of Boeing funds have been spent on this problem. Even though we have made significant progress through the use of these resources, the greatest lesson we have learned is that the problem is complex; and that simple, fast, inexpensive solutions do not exist.

Although not answering your questions to the extent I'm sure you desired, I hope these comments might be of help to the Public Works Committee in their deliberations on this very significant legislation. My recommendation for alternate rule language would be to suggest funding programs at a level to accomplish noise reduction to the extent technically feasible and at the rate the Congress and the Nation desires.

Very truly yours,

T. A. WILSON.

[Attachment.]

BOEING NOISE REDUCTION RESEARCH

[In millions of dollars]

	Boeing R. & D.	Government contract	Total
Year:			
1958	.601		.601
1959	.106		.106
1960	.282		.282
1961	.472		.472
1962	.550		.550
1963	.310	.022	.332
1964	.140	.330	440
1965	1.384	.210	1.594
1966	2.528	.925	3.453
1967	3.197	2.484	6.661
1968	10.957	6.878	17.835
1969	8.508	2.873	11.381
1970	4.447	1.082	5.529
1971	3.594	9.788	9.382
1972	6.031	10.918	16.948
Total	43.107	32.460	75.567

Note: Above expenditures do not include production development costs for airplane noise reduction activities totaling over $23,000,000.

McDONNELL DOUGLAS CORP.,
St. Louis, Mo., September 15, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I am writing in response to your letter of September 8 addressed to J. S. McDonnell, concerning provisions of the noise pollution control act (S. 3342) introduced by you and Senator Muskie. Clearly there is too much noise around airports and we are determined to do our part to help.

The attached letter from Jack McGowen, President of our Douglas Aircraft Company, to Jack Shaffer, Administrator of FAA, in response to his request for informal comments on tentative FAA regulations in this area, is a good statement of our position.

I would like particularly to emphasize that the current state of the art in technology makes it impossible to promise today that commercially viable airplanes and engines can be produced which generate far less noise than the requirements of F.A.R., Part 36, without cost and other penalties in excess of what the taxpaying public will accept. Research and development can undoubtedly improve our ability to produce airplanes which generate less noise, but there is no way to reliably evaluate the cost of reaching specific quantitative goals until after adequate research, development, testing and evaluation has been accomplished. I therefore urge that the government place great emphasis on expediting the necessary RDT & E so as to establish what is feasible, and only then stipulate dates when mandatory accomplishment will be required.

The FAA has experience in regulations of this kind, whereas the EPA has little. We would urge that advantage be taken of such experience in establishing the requirements and their administration.

McDonnell Douglas is devoting a great deal of attention to the problem of noise. If you or your staff would be interested in having one of our technical specialists provide a briefing covering the many complex aspects of this problem, I would be most happy to arrange it.

Sincerely,

KENDALL PERKINS.

DOUGLAS AIRCRAFT CO.,
August 18, 1972.

Hon. JOHN H. SHAFFER,
Administrator, Federal Aviation Administration,
Washington, D.C.

DEAR JACK: Your letter of August 11, 1972, in which you discussed a notice of proposed rule making that would require noise levels 10 EPNdB below FAR Part 36 for future production aircraft, has convinced me that you take the airport noise problem as seriously as I do. I really believe we must think in such terms if we are to achieve an air transportation system that meets the requirements for compatibility with communities around our airports.

I'm not suggesting that we know how to accomplish reductions which are in all cases as large as 10 EPNdB, nor am I suggesting that we could accomplish significant reductions by July 1, 1976. However, I believe that the industry and the FAA should get together to deter-

mine the noise reductions that can be accomplished and the time required to accomplish them. A quick look at our DC–10 would say we might be able to achieve noise levels between 5 and 10 EPNdB below FAR 36 depending on the reference location. Some of our research programs with your organization and with the NASA may also lead to similar possibilities for the low bypass ratio turbofan powered aircraft. Perhaps additional research may lead the way to the full 10 EPNdB below FAR Part 36.

One word of caution. All our studies show that regardless of how quiet we make the future production aircraft, the overall community noise situation will not benefit significantly until something is done to also reduce the noise of the JT3D and JT8D powered aircraft now in the fleet. Those aircraft must be considered along with future production aircraft. We recognize that the airlines do not have the resources to pay for a noise retrofit program and investigations to develop means of financing such a program should be conducted along with the research to develop the technology.

Frankly, I believe that other modifications to Part 36 that are currently being considered, such as temperature/altitude accountability and requiring future production aircraft to meet Part 36 offer no help to the noise problem and should be dropped in favor of a single modification to Part 36 which addresses the total problem and requires that all practical steps be taken to solve it. I would pledge my support to a program to develop such a modification.

We, at Douglas, will be most happy to work with you and your people both directly and through the Aerospace Industries Association to find solutions to this most serious problem.

With best regards.

Sincerely,

JACKSON R. MCGOWEN.

UNITED AIRCRAFT CORP.,
Hartford, Conn., September 16, 1972.

Hon. JOHN V. TUNNEY,
Committee on Public Works, U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: In your letter of September 8, 1972, you asked for comments on proposed changes by the Senate Public Works Committee to the aircraft noise control provisions of the noise pollution control act (S. 3342). As indicated in your letter, it is proposed that all existing aircraft comply with the maximum noise level standards in Appendix C of FAR Part 36 after January 1, 1976, and that all aircraft which could not be retrofitted economically to comply be replaced by a new generation of quieter aircraft. It is also proposed that new aircraft types manufactured after January 1, 1975 meet a noise level at least 15 EPNdB lower than FAR Part 36.

Because of the very short response time requested in your letter, my comments must be brief and general in nature since there is insufficient time to provide in-depth replies to your proposals.

We do not believe it is possible, either technically or logistically, to retrofit or replace current aircraft with quieter versions meeting FAR 36 noise requirements by January 1, 1976. The existing fleet of aircraft

in question currently provides approximately 80% of the present U.S. domestic seat capacity, and we estimate that in 1976 these aircraft will still represent approximately 60% of the domestic seat capacity.

Both the FAA and NASA are funding extensive programs to establish noise reductions possible on 727, 737, DC–9, 707 and DC–8 aircraft through a retrofit program. The FAA retrofit feasibility program includes nacelle acoustical treatment and jet suppressors while the NASA program includes nacelle treatment and new front fan engine modifications. Most of the JT8D powered aircraft (727, 737 and DC–9) could probably be retrofitted with nacelle treatment alone to meet the noise limits of FAR 36. Because these aircraft are at present so close to meeting the FAR 36 requirement, however, the improvement resulting from such action would hardly be perceptible to the human ear, and thus would not provide any appreciable noise relief to the airport communities. The current FAA and NASA programs are planned to accomplish reductions in jet noise as well as fan noise for both JT8D and JT3D powered aircraft in order to obtain meaningful community noise reduction. Provided these programs continue at adequate funding levels, a decision on the appropriate action for a retrofit program is expected by late 1973 or early 1974. On this basis, aircraft retrofit could not be initiated sooner than 1976 or be completed earlier than 1979.

With regard to the proposal that current aircraft which cannot be economically retrofitted be replaced with new generation quieter aircraft already under construction, there are no new quiet aircraft under development to directly replace the smaller 727/737/DC–9 class of aircraft or the 707/DC–8 aircraft serving low density routes. Such new aircraft are not likely to be available in quantities earlier than the 1980's.

In the case of new aircraft/engine designs, industry does not have in hand either the technology or adequate funds to accomplish a noise level 15 EPNdB lower than FAR Part 36 for aircraft manufactured after January 1, 1975. With strong government support, the technology may be developed during the next few years to accomplish a noise level 10 EPNdB lower than FAR Part 36 for aircraft manufactured in the late 1970's or early 1980's.

We strongly recommend that prior to establishment of aircraft noise standards for future application, a joint task force, consisting of FAA, NASA and industry personnel, be established to recommend the noise levels which can be practically achieved within the 1970 and 1980 time periods. We further recommend that the FAA, for reasons of safety, be continued in the primary role for regulation of aircraft noise, with the EPA taking the advisory role.

As I am sure you know, the United States airlines have been suffering severe economic problems for several years. The financial burden of any prescribed retrofit program which provides no economic return to the airlines presents a major obstacle to its accomplishment, and may require that the government plan a significant role in making such a program financially possible.

Please be assured of our vital interest in the noise reduction question. We appreciate the opportunity you have afforded us to comment

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on your proposal, and we would be pleased to participate in further discussions or in any task force established to further define future requirements for noise certification.

Sincerely,

B. H. TORELL,
Division President,
Pratt & Whitney Aircraft Division.

NORTH AMERICAN ROCKWELL,
El Segundo, Calif., September 15, 1972.

Hon. JOHN V. TUNNEY,
Committee on Public Works,
U.S. Senate, Washington, D.C.

Attention: Mrs. Jane Frank

DEAR SENATOR TUNNEY: In Bob Anderson's absence, I am replying to your letter of September 8 asking for our comments on the additions which are being proposed to the noise pollution control act (S. 3342).

We are, of course, in general agreement that control of airport noise is an important objective and believe that industry would welcome assistance from the Government in the further development of noise abatement technology. However, in view of the present state of the art, we do not believe it is desirable to incorporate firm requirements in federal legislation at this time.

The specific questions which you have asked concerning the technical and economic aspects of retrofit can better be responded to by those companies who manufacture commercial aircraft. Our endeavors have been limited to general aviation aircraft. Airplanes of this type are a smaller part of the overall aircraft noise problem which is dominated by the large commercial aircraft. For one thing, it is not clear what portion of the airport noise problem results from the operation of general aviation aircraft. In this connection, we would particularly welcome the opportunity to work with Government agencies to develop the information necessary to determine the kinds of constructive actions which would be required.

Most of the engines for general aviation aircraft are well over ten years in production, and there are few practical engines in the 3,000-pound to 5,000-pound thrust class that would be available in the next few years. For engines in this class, we believe there is limited technical information available with respect to noise reduction. This has contributed to the impracticality of working up economics of retrofit or retirement and replacement.

In general, taking into account the wide spectrum between very small general aviation aircraft and the large commercial airliners as well as the limited technology regarding noise abatement, we believe that it is premature to establish absolute standards by legislation and that the flexibility permitted by regulatory rather than legislative control is desirable. A further point we would make is that separation

of authority over noise control from responsibility for operational safety could lead to safety problems.

I am sorry that the timing of action by your committee on this bill does not permit us to give you a more extensive reply.

Sincerely,

WALLACE W. BOOTH.

AEROSPACE INDUSTRIES ASSOCIATION OF AMERICA, INC.,
Washington, D.C., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: We are in receipt of your letter of September 8, 1972, informing us of proposed amendments to S. 3342 calling for new aircraft noise reductions.

First, it is the firm finding of our member companies, which make up the bulk of the transport aircraft manufacturing industry and as such are amply qualified to make such judgments, that the new aircraft noise reduction schedule of 15 EPNdB below the Part 36 standard by January 1, 1975, proposed in your letter would be impossible to achieve. A 10 EPNdB reduction by 1981 was suggested by the Civil Aviation Research and Development Policy Study (CARD) published by the Department of Transportation. Industry considers this an attainable goal, providing the costly technological development involved continues to receive appropriate funding, both public and private.

Second, to prohibit any aircraft which does not comply with the maximum standards in Part 36 by January 1, 1976, from landing in the United States could have the practical effect of ending commercial air service here as of that date.

It is difficult to believe that diminution of progress in either of these areas is the intention of the Committee on Public Works. It would certainly seem that further study of these proposed measures would be in order.

For instance, in response to your inquiry about the current state of technology with respect to front fan treatment in addition to nacelle treatment we can refer you to a NASA contract awarded this year on this very subject. The engine in question is an experimental rather than a production model, however, and the results of that contract will not be available for three years. Furthermore, this is not the only relevant research now underway. As you must be aware, the transport aircraft and engine manufacturers have, at great expense, made tremendous reductions in aircraft engine noise during the past several years and are acutely aware of the need for further reductions. Unfortunately the availability of the technology to accomplish these additional decreases cannot be effectively legislated.

We urge you to delve into the existing knowledge on this subject and for your convenience include a copy of an article on the subject which appeared in the Association's Aerospace Magazine.

In addition, we would again recommend that the FAA, for reasons of safety, exercise the primary responsibility, in consultation with the

EPA, for setting aircraft noise standards. In the present context, we would urge also that the standards-setting agency not be limited by legislated noise reduction goals.

Yours very truly,

KARL G. HARR, Jr.

AMERICAN AIRLINES,
New York, N.Y., September 15, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for the opportunity to comment on the proposed modifications to the Noise Pollution Control Act (S. 3342). We are mindful of the need to help develop solutions to the noise problem. Our commitment to this goal is illustrated by the fact that American Airlines developed the noise abatement specifications that were built into both the DC–10 and L–1011.

Because of the admitted urgency of finding a solution to noise developed by our older aircraft, we have been studying this matter in considerable depth from both the technical and financial point of view. We have come to certain conclusions which I am pleased to pass along to you:

(1) We believe it is technically possible to modify aircraft now in service to meet FAR 36 specifications, if sufficient time is made available to do so.

(2) The cost of retrofit, even within the minimum time limits that we consider achievable, is beyond the capability of the airline industry to support, and would require public funding.

(3) The January 1, 1976 date is not feasible. The earliest achievable date in our opinion is January 1, 1978.

(4) There are promising options to reduce the noise level of operations at such points as Los Angeles by altering take-off and approach procedures. These revised procedures offer a reasonable hope for more prompt relief than could be accomplished through aircraft retrofit.

(5) The proposed January 1, 1975 requirement for new aircraft to comply with FAR 36 minus 15dB is unrealistic.

Regarding conclusion (1), we believe that with the knowledge and material available to us today, it appears possible to develop a modification for each type of aircraft now in service so that compliance with these levels can be obtained. This cannot be done, however, without adequate time to design and test the specific hardware to be used. The retrofit design must not only produce the required noise levels, but must also be thoroughly tested to assure continued operational safety and reliability required to maintain airline service in the public interest.

To avoid unnecessary waste of resources, it is necessary to determine which retrofit approach is most effective and desirable. As you note in your letter, there are two basic approaches to noise reduction now being funded by the government: the nacelle and jet suppression treatment and the new front fan design. The latter approach is most desirable from an operational point of view, but it is already clear to us that the conversion cost is much higher. Given the magnitude of

the retrofit problem, it would be unconscionable to make a forced choice between these two approaches until thorough testing of both solutions have been completed. This process can be expected to take at least two years at the rate at which the government has been funding these studies.

When the preferred approach is determined, our engineers estimate that it will take at least three years from the time of delivery of the first kit to install a modification on our complete fleet, assuming that all air carrier airplanes were simultaneously modified. The cost to our industry of attempts to speed up this time span increases at an enormous rate and I would estimate that our costs would double if, for example, a two-year time period were required. For the same reason, a considerable reduction in cost would be possible if the time period were extended.

With regard to conclusion (2), the cost of retrofit, we estimate that to comply with these programs by January 1, 1978, which we believe to be the earliest achievable date, the cost to American Airlines would range from $120 to $315 million, depending on whether nacelle treatment or a new front fan approach is chosen. We believe these figures, expressed in 1972 dollars, are accurate to within plus or minus 20%. American Airlines cannot conceivably fund a program of this magnitude. The suggested alternative, which is to replace these airplanes by that date, is also unworkable. We would be required to retire ninety-seven 707-type aircraft. Even assuming that our route structure and traffic demand would permit replacement of the lift provided by these aircraft with DC–10's (which is not the case), we would have to purchase fifty-seven new DC–10's at a cost of approximately $1.1 billion. Faced with these staggering costs, which we believe are entirely realistic estimates, I cannot in any good conscience support a retrofit program of this nature, unless it is accompanied by an outright financial grant to make this modification in the public interest.

The foregoing explains the basis for our conclusion (3) that the proposed January 1, 1976 date is not feasible. If we were required to comply with FAR 36 by January 1, 1976, it would be impossible for us and other airlines to meet the public need for transportation and the requirements of our certificates of public convenience and necessity. Under such restrictions we could not provide service on a majority of the routes we are certificated to serve. While it is more difficult and time-consuming to modify some types of aircraft than others, the January 1, 1976 proposal is, in my opinion, impossible to achieve.

Regarding conclusion (4), we believe that strict compliance with FAR 36 by engine or nacelle retrofit may not be the most effective way to reduce noise. There are several promising options to reduction of noise level by altering take-off and approach procedures. We have already implemented new take-off and approach procedures which have reduced noise exposure, but considerably greater progress can be achieved, we believe, through our program of active testing, with support from NASA, of two-segment approach procedures. We believe it can already be established that noise relief of the magnitude you seek is possible by the use of this technique. This approach offers the best hope, in my opinion, of reasonably prompt relief in the Los Angeles area.

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Noise abatement achieved by revised approach procedures could resolve a significant concern over another aspect of the retrofit proposal. Specifically, the difference between the current noise levels of certain aircraft (in our case the 727's) and the requirements of FAR 36 will be so minimal as to be almost imperceptible to the public. It would be a tragic waste of resources to effect this retrofit only to find that the public is wholly unsatisfied. Relief through modification of approach procedures may consequently offer a better solution than retrofit, both in terms of cost impact and more prompt conformity with FAR 36. This is certainly true with respect to the quieter of the older aircraft, such as the 727's, and might provide an acceptable solution to the problem of the 707 and DC–types as well.

Regarding our conclusion (5), the proposed requirement that new types of aircraft to be manufactured after January 1, 1975 comply with FAR 36 minus 15dB is in the opinion of our engineers totally unrealistic. Such a requirement would necessitate the use of a new engine vastly quieter than any now existing. It has been our experience that an absolute minimum of four years is required to develop such a new engine even when the technology is in hand to permit commitment to the project.

It is also worth pointing out that prohibiting operation to the United States of aircraft of foreign registry that do not comply with these noise levels would present a most difficult international problem for our country. Foreign governments could hardly be expected to permit U.S. carriers to serve their countries if the operation of their own flag carriers to the U.S. was prohibited.

Sincerely,

GEORGE A. SPATER.

TRANS WORLD AIRLINES,
New York, N.Y., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate, Committee on Public Works,
Washington, D.C.

DEAR SENATOR TUNNEY: TWA is pleased to have this opportunity to respond to your letter query of September 8 on the control of aircraft noise.

As you knows perhaps, TWA has been instrumental and successful through the years in forcing the development of quieter and more pollution free aircraft. TWA, along with several other leading airlines, has always contractually required the incorporation of the latest noise attenuation technology that is practical and effective when procuring aircraft. This continues to be our policy and our objective. Current examples of good progress are the Boeing 747 and Lockheed 1011.

TWA has also studied the various programs and designs targeted toward the development of retrofit technology which have existed throughout the jet age. It is also familiar with current programs including the front fan and nacelle treatment programs mentioned in your letter. In fact, TWA just completed a comprehensive review of all known possibilities and programs last week.

Through the years, TWA has encouraged the development of those technologies which stand to reduce external aircraft noise. It was

hoped that by now practical designs for effectively reducing noise from the older aircraft in our airport communities would be in hand. This is not the case and, unfortunately, little prospects for early practical solutions exist. However, all reasonable efforts to advance applicable technologies and to develop suitable designs should continue.

As matters now stand, either the predicted noise improvements are so low as to be completely cost ineffective or they are impossibly expensive and would occur in a time frame that would not permit completion of retrofit programs prior to the 1977–1981 time period. This is too late since by then the majority of the older narrow bodied four-engine jets will either have been retired or will be on the eve of retirement from commercial service.

You may be interested to know that four-engine aircraft retrofit capital costs are estimated to run from approximately $1,200,000 per airplane for the quiet nacelle to approximately $1,900,000 per airplane for the new and as yet undeveloped front fan. Parts obsolescence costs, revenue loss from added fuel consumption and/or empty weight increases, and loss of utilization during the conversion period are all in addition and would total a very appreciable amount. The capital costs alone would result in a minimum increase in seat mile cost of from approximately 7.0% to 13%. Capital required for TWA aircraft alone could total as much as $300 Million. This quite obviously would be totally unacceptable.

Costs and timing indicated herein are preliminary estimates since neither the quiet nacelles nor the new front fans are fully developed or have been tested in flight. The quiet nacelle being developed by Boeing Wichita will not fly until next year and the new front fan won't be in the air for several years and then only if engine ground tests are successful. It is of the greatest importance that such devices be tested for acceptability by human ears on a controlled empirical basis. History shows that meters and forecasted results simply are not reliable in this regard. In no event should retrofit programs or implementation schedules be adopted until this is done.

Thus, summarily, the suggested FAR 36 compliance date of January 1, 1976 for all aircraft operating into U.S. airports is totally unrealistic and cannot be achieved. At this time it is impossible to rationally set a date for the mandatory achievement of this objective. Applicable technologies must be advanced, noise reduction effectivity determined by flight tests and economic feasibility established first. Any language additions to S. 3342 along the lines suggested in your letter of September 8 are premature and ill advised.

As to the proposed requirement that new types of aircraft manufactured after January 1, 1975 comply with noise standards 15 EpnDB less than FAR 36 App. G., TWA understands this subject is currently being considered by the FAA. TWA doubts that the attainment of a 15 EpnDB reduction is realistic by then and suggests that a 5 to 8 EpnDB reduction would be more realistic. However, since action is under way, language additions to S. 3342 would seem unnecessary and duplicative.

TWA respectfully suggests that prior to the inclusion of any language in S. 3342 on aircraft noise alleviation requirements or retrofit schedules, that an informal meeting be held between you and/or your

staff and selected airline representatives. Such a meeting could serve to discuss and clarify significant facets of retrofit to a greater extent than is practical in this letter. If you consider such a meeting appropriate, TWA would, of course, be happy to participate.

Very truly yours,

F. C. WISER.

INSTITUTE OF NOISE CONTROL ENGINEERING,
Cambridge, Mass., September 18, 1972.

Senator JOHN V. TUNNEY,
New Senate Office Building,
Washington, D.C.

Attention: Mrs. Jane Frank

DEAR SENATOR TUNNEY: I am pleased to respond to your letter of 12 September 1972 in which you solicit my views in regard to the Noise Pollution Control Act (S. 3342). The comments offered herein are based on assessment of the status of aircraft acoustics technology and regulation available to me as a Member of the Aeronautics and Space Engineering Board of the National Academy of Engineering and upon jet engine and airport noise research in studies performed by me and my colleagues at Bolt Beranek and Newman Inc.

The current state of technology supports the addition of language to S. 3342 that, "No aircraft could land at U.S. airports after 1 January 1976, unless such aircraft complied with the maximum noise level standards in Appendix C of Part 36 of the Federal Aviation Regulation." However, the reqirement that new aircraft meet a noise level 15 EPNdB lower than the FAR Part 36 standard by 1 January 1975 is incompatible with development, manufacturing, and certification schedules and possibly beyond the state of art of noise-control technology for large transport aircraft. A careful look at available noise control technology and at the length of time it takes for manufacturing and certification schedules to be accomplished, convinces me that new aircraft could realistically be required to meet noise regulations that are 10 EPNdB lower than FAR Part 36 by 1 January 1978. In making this statement I have not balanced the technological and time schedule against economic considerations because I feel that this balance must be made by government and not by engineering people. A 15 EPNdB reduction below FAR Part 36 might be feasible by 1982, but further study is necessary to confirm this statement.

I strongly recommend that the Environmental Protection Agency be given the responsibility for specifying and enforcing noise exposure criteria for communities near airports. Although, the Federal Aviation Administration and the Department of Transportation along with NASA have supported technology development in this area, the FAA has shunned the responsibility for setting aircraft community noise exposure criteria. The EPA should be given the authority for selecting and enforcing these criteria, but the specific methods and individual aircraft numbers involved in meeting these goals should be selected in collaboration with NASA, which has responsibility for aeronautics research, and with the FAA, which has the ultimate responsibility for

the refinement and application of aviation technology to the civil air transportation system.

If the Noise Pollution Control Act is still an issue during the next session of Congress, my colleagues in this country, in particular the NAE Board, INCE, and Bolt Beranek and Newman Inc. and other research companies would be pleased to provide you with detailed comments in regard to the present status of acoustical technology pertinent to the subject of aircraft retrofit and new aircraft development.

Sincerely,

LEO L. BERANEK,
President, INCE.

[p. 54]

1.4a(3) CONGRESSIONAL RECORD, VOL. 118 (1972)

1.4a(3)(a) Feb. 29: Considered and passed House, pp. H1508–H1539

NOISE CONTROL ACT OF 1972

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 828 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 828

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

(Mr. MATSUNAGA asked and was given permission to revise and extend his remarks.)

Mr. MATSUNAGA. Mr. Speaker, with

[p. H1508]

the din of the heated debate on the Union Calendar over, I believe we can now shift our attention to noise pollution and its effect on our health. But while on the subject of health, I heard on my way over to the floor that the people of Taiwan have discovered something worse than the Hong Kong flu; it is "the Peking flight."

(Mr. MATSUNAGA asked and was given permission to revise and extend his remarks.)

Mr. MATSUNAGA. Mr. Speaker, House Resolution 828 provides for consideration of H.R. 11021, which, as reported by our Committee on Interstate and Foreign Commerce, provides for a program to control the emission of noise which is detrimental to the human environment.

Because the committee report was not filed until Saturday, February 19, 1972, and, excluding Sunday and the legal holiday which followed, the 3 calendar days had not intervened before the bill was scheduled for floor consideration, as required under rule XI, clause 27(d)(4), the resolution provided for a waiver of that requirement to avoid any point of order. However, since the bill was rescheduled for floor consideration for today the waiver is no longer required.

Mr. Speaker, the resolution provides an open rule with 1 hour of general debate, and also makes it in order to consider the committee substitute now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule. Upon conclusion of consideration of H.R. 11021, the resolution further provides that the Committee of the Whole shall rise and report the bill to the House forcement machinery must be provided.

Mr. Speaker, H.R. 11021 is designed to do all of these things. Except for aircraft noise control standards and regulations, over which the Federal Aviation Agency will exercise primary responsibility, the Environmental Protection Agency is empowered to carry on a comprehensive program of noise abatement and control. Citizen suits are authorized against violators and the EPA administrator is authorized to assess and collect in civil action penalties of not more than $25,000 for each violation.

The bill also authorizes appropriations in the amount of $3 million for fiscal year 1972, $6 million for fiscal year 1973, and $12 million for fiscal year 1974, plus $1 million for fiscal year 1972 and $2 million for each of the next 2 fiscal years for the payment of additional costs of certifying low-noise-emission products.

Mr. Speaker, I urge the adoption of House Resolution 828 in order that H.R. 11021 may be considered.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MATSUNAGA. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, does it not appear to the gentleman that with this $12 million for the fiscal year 1974 that there will be a very nice little empire of employees built under the terms of the money to be authoriated and appropriated for this new outfit in Government?

Mr. MATSUNAGA. I do not believe so. As the gentleman may well concede, $12 million is much too small a sum with which to build an empire. With costs as high as they are today even Caesar could this bill out considered all the questions that the gentleman now raises.

Mr. GROSS. I only asked the gentleman the question I did because he lauds this as a great bill.

Mr. MATSUNAGA. As the gentleman knows, noise is truly a big pollution problem today. I support the bill because it proposes a solution to this problem. The $12 million will be an investment in the good health of our people, particularly those 80 million Americans whose hearing is daily placed in jeopardy because of the existing sources of noise.

Mr. GROSS. Perhaps we should have had it earlier this afternoon and applied to what took place on the House floor.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MATSUNAGA. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, as the gentleman from Hawaii has explained, House Resolution 828 provides an open rule with 1 hour of debate for the consideration of the bill (H.R. 11021), the Noise Control Act of 1972.

Mr. Speaker, I would like to call the attention of the gentleman from Iowa who just engaged in a colloquy with the gentleman from Hawaii that the total authorization in this bill is $26 million rather than $21 million.

The gentleman overlooked $5 million in this legislation.

Mr. GROSS. If the gentleman will yield, I am sorry I made that mistake and thank the gentleman from Nebraska

with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute.

Mr. Speaker, the Environmental Protection Agency reports that noise appears to affect to a measurable degree of impact at least 80 million persons, or approximately 40 percent of the present population of the United States. Of that number, at least one-half are believed to be risking potential health hazards, hearing impairment in particular, as the result of long enduring exposure to noise.

On a more selective basis, occupational noise has long been known to cause various degrees of hearing impairment among some of the working population. The number of persons engaged in occupations in which there exists a definite risk of hearing impairment is estimated to be as high as 16 million.

The growth in numbers of sources of noise in recent years underscores the need for legislation such as H.R. 11021. Obviously, not all noise will pose a potential hearing impairment hazard. Therefore, any program to control noise must be reasonable and, in order to be successful, must be grounded on several basic considerations: First, the sources of noise that jeopardize human health or welfare must be identified; second, noise emission standards must be established; and, third, an abatement or enot do it. This bill was reported out of the Committee on Interstate and Foreign Commerce, without any objection, in its recognition that there are many, many items which are being produced today which need to have their noise emission controlled and the sum of $12 million would constitute a mere drop in the bucket, if it were sufficient at all.

Mr. GROSS. Perhaps a drop in the noise bucket; is that it?

Mr. MATSUNAGA. We hope that when the drop is made, its consequence will be that there will be no deleterious noise.

Mr. GROSS. Does not the gentleman agree that the expenditure of $21 million will likely result in the creation of another administrative empire, and especially in terms of this beautifully titled new committee—the Low-Noise-Emission Product Advisory Committee.

When they dream up better titles than that, I do not know whether I want to be around here. But when this section goes on to provide that they can hire an unlimited number of people at the supergrade level of GS–18; does not the gentleman think there ought to be some brakes put into this legislation to control the hiring of people?

Mr. MATSUNAGA. As the gentleman knows, the primary administrative function will be performed by the Environmental Protection Agency which is an agency already in being. Perhaps that question should be put to the chairman of the committee during the general debate on the bill itself. But I am confident that the committee in reporting for his correction.

Mr. MARTIN. I know the gentleman is a great student of legislation that we have before us and I did want to call that to his attention, because in addition to the $21 million, there is an additional program cost where the bill authorizes $1 million for the fiscal year 1972 and $2 million for each of the 2 succeeding years for the Federal agencies to pay the necessary additional amount for low-noise emission products.

So the total authorization of the bill is $26 million.

Mr. Speaker, this legislation was reported out of the Committee on Interstate and Foreign Commerce unanimously. I support the rule and I support the legislation. I reserve the remainder of my time.

Mr. MATSUNAGA. Mr. Speaker, having no requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

[p. H1509]

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11021, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. NELSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman and Members of the House, I rise in support of the bill which came out of our committee. I think it is a good bill. I think it is one that we need. The legislation looks ahead a little bit before the Nation really gets into desperate trouble on the noise situation. We are in enough trouble already in this respect.

Noise is affecting millions of people physiologically, psychologically, and sociologically at the present time. We have proof that many people in our mental institutions have been put there as the result of excessive noise and irritation caused by noise. Noise affects the body physically and can cause different diseases. Certainly it is a sociological problem.

The bill had several days of hearings in the subcommittee. It came out of the subcommittee unanimously. It came to the full committee, was discussed there in executive session, and came out of the and women—and I assume we would have some women as part of that committee—who are experts and who will be called in occasionally to advise and help on noise problems. They are paid at the GS–18 rate and only a per diem and only for the time they are there. I think most Federal agencies have such advisory committees. As I say, these are people who are specialists from the manufacturing field, or other fields and who have some special knowledge. They are brought in to help.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. If the gentleman will yield, I would refer him to the language on page 59 of the bill where he will find there are no limitations as to numbers of new employees and the limitation as to pay is GS–18, which is a supergrade.

Mr. STAGGERS. We say that they shall be a reasonable number on this advisory committee, and they shall be paid only for the days they work. I cannot conceive of the administration bringing in a vast group of people here to advise on the noise issue. I just think it would be a reasonable size group.

Mr. GROSS. If the gentleman will yield further, this bill authorizes $21 million, largely if not all of it for administrative purposes. Does it not?

Mr. STAGGERS. This authorization is for 3 years. As I said, the bill requires coordination of 18 different agencies, and it does this too:

It applies to inspecting prototype engines and other parts that contribute and I do not see how people can get their sleep and do their work in the daytime under such conditions.

Mr. GROSS. If the gentleman will yield further, there are other things that are becoming serious in this country, and one of them is the state of this Nation's finances which is of crisis proportions.

Mr. STAGGERS. I would agree with the gentleman.

Mr. GROSS. I am going to look long and hard before I vote for a total of $26 million to be expended in this fashion and for this purpose.

Mr. STAGGERS. I agree with the gentleman that this is one of the problems. The administration and the committee in its wisdom thought it was imperative to be done and to be done now.

With this explanation of this bill and what it does, I urge every Member of the House to vote for it. It is with vision, looking into the future, that we need to take care of the problem now.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. ADDABBO. In view of the colloquy held with the gentleman from Iowa, and the growing problem of possible damage to hearing, et cetera, could the gentleman explain to me why, under section 7, "aircraft noise standards," the FAA is retained as the custodian of noise decibels and not the EPA, especially in view of the fact that the FAA has had this authority for the past 3 years and has not set noise decibels, has not fulfilled the obligation given to it by congressional direction?

full committee unanimously.

The subject was brought to our committee by the administration, and we were told of the importance of the situation at the present time.

My colleague from Illinois (Mr. SPRINGER) and I introduced the first bill that was introduced. It came to the subcommittee. There were substantial changes made in it. The bill now before the committee is, I think, a much better bill than the first bill that was sent to the Hill.

There are three or four main propositions stated in the bill.

The program would be administered by the EPA, which already has an office set up for that purpose. EPA would coordinate the major noise control programs of seven Federal departments and agencies, as well as 12 minor programs conducted by other agencies. Besides that, EPA would work with the FAA in trying to solve the noise problems of our airlines and airplanes. Under the Federal Aviation Act we have provided that there be substantial noise research and control. We found that noise has to be considered along with safety and safety comes first before we can consider anything else. We shall try to work on the noise problems and we shall make progress.

We hope within the next few years we will have planes that will not make any noise that will be objectionable.

An objection was raised a moment or two ago about a special committee that would be established. There will be men to noise. This is where the money will be spent in this field. Just a small part of the funds will be for the administration.

Mr. GROSS. If the gentleman will yield further, if the administrative is now in being, why do we supply this additional money? Why is this huge expansion provided for in the bill?

Mr. STAGGERS. We call for more research and better testing methods. Actually they are going to buy certain prototypes and test them and see how they work. Then they are going to set standards on each one of those new products which constitute major noise sources.

There will be on the labels which are required under this bill information telling what noise will be of the product or how much the product will reduce noise.

Each State or community will still have the right to say this is a hospital zone and certain vehicles cannot go through there, or trucks may not use certain avenues. We leave that to the States or localities. We do try to set standards for new products and there will have to be a great deal of research to find out what the noise levels are that will hurt human beings psychologically and physiologically and sociologically.

We cannot wait until the year 2000, until after everybody has serious problems with noise. We think that will be too late. This is an attempt to look ahead before that occurs. This is serious now. If the gentleman happens to be in an area where there is a serious noise problem, he will know the people cannot sleep at night. I have been in some of those areas,

Mr. STAGGERS. They are working on it, I say to my colleague from New York, and hope to come up with an engine which will be within the limits, and far below the limits. I believe this is possible, from the information I have received.

We said that safety should come first. That is the reason why we left it with the FAA. The EPA or some other agency might not know about safety, and might come out to say, "you can have so many decibels of noise on takeoff and landing," and several hundred people or perhaps thousands might be killed. We say it has to be within the limits of safety.

They will reduce this noise, and hopefully within the next 5 years will have reduced this to the point where people can sleep at night.

As the gentleman knows, in several cities such as Washington, D.C. the jets cannot come in after 11 o'clock at night and cannot take off until after 6 o'clock in the morning.

Mr. ADDABBO. We do not have that privilege in and around Kennedy Airport, where they take off 24 hours a day.

We would rather have the EPA set the noise decibels, with the FAA acting as consultant, rather than vice versa.

Mr. STAGGERS. I do not believe they can possibly do it. We set up the noise control under the FAA. They have been working on it faithfully. They have been doing a lot of research. I understand they will come up with something within the next few years and we will have aircraft that will not be making excessive noise.

Mr. ADDABBO. Mr. Chairman, I support H.R. 11021, the Noise Control Act of

1972. Many of the provisions of this legislation are similar to proposals which I have sponsored or supported before and I commend the members of the Interstate and Foreign Commerce Committee and the Public Health and Environment Subcommittee for their outstanding work on this legislation.

The bill before the House today would empower the Environmental Protection Agency—EPA—to control the emission of noise detrimental to the environment and to human health. The EPA would have the power to enforce noise emission standards for new products and to coordinate Federal programs relating to noise research and control.

In my own Seventh Congressional District we are faced with a most serious noise problem because of the aircraft noise and pollution from aircraft at Kennedy International Airport. It was for that reason that I sponsored the Aircraft Noise Abatement Act of 1968 which authorizes the establishment of maximum aircraft noise levels by the Federal Aviation Administration. I have been a frequent critic of the FAA for failing to enforce that 1968 law effectively and I am pleased that the committee has included a provision in this bill to give the EPA authority to request the FAA the review standards which EPA finds do not adequately protect the public but I believe that in view of the fact the FAA has not fulfilled its obligations to date by setting proper noise levels the EPA should assume this duty and I will therefore support the amendment to be offered to give the EPA that power.

Millions of Americans live near our in support of the bill as it was reported by our committee. I believe the details of the bill have been well covered.

Mr. Chairman, the objective of the Noise Control Act of 1972 is to promote an environment for all America free from noise that jeopardizes their health and welfare.

The testimony received by the Public Health and Environment Subcommittee indicates that as many as 44 million persons in the United States have the utility of their dwellings adversely affected by noise from traffic and aircraft, and 21 million persons are similarly affected by noise associated with construction activities, and at least 40 million persons are exposed to noise potentially capable of producing hearing impairment due to the operation of noisy devices and the number of such devices and the intensity of exposure is steadily rising. Although obviously these figures are not additive, noise appears to affect to a measurable degree of impact at least 80 million persons or approximately 40 percent of the present population of the United States. Of that number roughly one-half are risking potential health hazards in terms of long-duration exposure resulting in hearing impairment.

Some may feel it is unnecessary to be concerned about noise pollution in our environment. Yet any farmer or industrial worker who operates excessively noisy equipment for a prolonged period knows it can harm his hearing and cause physical problems. Long exposure to excessive noise is known to damage human health, to create explosive community stress, and to cause structural damage to

The proper role of the Environmental Protection Agency and the Federal Aviation Administration with respect to aircraft noise has been resolved by the committee, and the bill leaves with the FAA the authority to establish standards but adds the requirement that they may not be prescribed before EPA has been consulted and given the opportunity to make suggestions on standards for aircraft. To carry out the purpose of the bill, an authorization is provided for the next three fiscal years in amounts of $3 million, $6, and $12 million, respectively.

Each day there is an increasing awareness of noise pollution, and the bill will go far in helping to prevent significant increases in noise levels by setting up government machinery to help control noise pollution—the greatest nonkilling health hazard in America today. I recommend the Noise Control Act to my colleagues for their approval.

Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I was trying to get clear in my mind the other day on the way to work, just what I would say to my colleagues today to convince them that passage of H.R. 11021, the Noise Control Act of 1972, is essential.

It had just occurred to me to quote Aquinas on the majesty of seclusion for cogitation, but I lost the passage in my mind as two buses swept past me.

Samuel Clemens had something quite relevant to say of the solitude of life on the river in a simpler time, but I forgot his remark as two workmen broke through a concrete sidewalk with jack-

Nation's airport and they have yet to obtain noticeable relief from the aircraft noise problem. It is my hope that this legislation will lead to more vigorous enforcement of existing law as well as provide the tools for combating the entire noise problem.

The legislation also authorizes EPA to set standards in the areas of construction equipment, transportation equipment, motors or engines; and electrical or electronic equipment. New York City is an area which should receive prime benefits from this legislation because of the heavy concentration of this kind of equipment and the volume of work in these areas.

Of particular significance from the standpoint of consumer protection—and this is a consumer bill in a very real sense—is the provision allowing citizen suits against those who violate noise standards or against agencies failing to perform their duties under the act. Such a provision will in my opinion go a long way in convincing agencies such as the FAA that they must move more expeditiously in carrying out their responsibilities.

I urge my colleagues to vote for H.R. 11021.

(Mr. ADDABBO asked and was given permission to revise and extend his remarks.)

Mr. NELSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support this bill and I am pleased to submit for the RECORD a statement that was just handed to me from the Republican Policy Committee buildings.

The Environmental Protection Agency studies indicate the current population of young people will have much more serious hearing problems in their middle years than the present population, primarily because of exposure to music played at intense levels.

So we must make a start toward getting the noise problem under control before our already overcrowded cities become even more unliveable and explosive. We need to encourage the development of new equipment that will operate without excessive noise. We do not have the technology now to accomplish this task over a reasonable time period.

The hearings on the noise Control Act of 1972 brought out that 19 different departments and agencies have fragmented responsibilities for noise abatement. The clear need is to coordinate their efforts under the roof of the Environmental Protection Agency and to permit EPA in coordination with state and local authorities to develop a program to reduce noise that is clearly dangerous to human health and community welfare.

The bill affects the authority of States and political subdivisions over noise emissions in only one respect. For products other than new products to which Federal standards apply, State and local governments retain exactly the same authority they have in the absence of the standard setting provisions of the bill. The authority of State and local governments to regulate use, operation or movement of products is not affected by the bill.

hammers.

But that was all right because there was still in my mind the vision of Lincoln as a lad sitting by the fireplace studying alone the crinkled pages of a book on English composition. Or at least that was in my mind, until a 727, not a foot overhead, screamed the image from my senses.

Perhaps it was just as well that the succession of interruptions continued. If they had not, I would have probably found the words of some long-dead tranquil fellow to bore you.

That would have been very out of place, for the present does not seemingly belong to those peaceful men who lived quietly not so long ago.

Noise and the noisy have plainly come to stay.

I urge those of you who would extend these visitation privileges to oppose this bill, naturally as noisily as possible.

I, however, support it because I recognize this measure to be a strong first step toward dealing with a basic infringement of one of the most personal rights, the right to peace.

Of course, I do not mean peace in the combatant sense, though sometimes it surely sounds as if a full-scale engagement is constantly in progress between the holes and trenches that dot like urban sinkholes this and other cities.

I mean that people need peace from the racket that can wrench from their minds whatever concrete notions may be cooking there in solitude and turn them to quicksilver, gone for good.

My colleagues and I of the Subcom-

mittee on Public Health and Environment have worked long and hard to make this a sane and relatively inexpensive undertaking, considering the peace and quiet it is likely to regain for the American people.

The bill would impose fines of $25,000 a day on polluters of the Nation's eardrum. That is a sizable assessment, and large enough to make noncompliance genuinely unprofitable in short order.

The act is directed at noncombatant and nonresearch equipment used by the Defense Department, possibly one of the worst violators of our national auditory canal.

The EPA would gather and coordinate data on noise gathered by 17 different Federal agencies. All the information would be in one place—in position to be used against those who are deafening America.

Also labeling would tell every consumer precisely how great a headache he is buying for himself each time he purchases a nose machine.

And the price is right—$3 million this first year, $6 million the next, and $12 million in 1974.

I cannot think of a better or more important piece of legislation for the health and emotional well-being of future generations than this one. We offer this body a comprehensive, well-drawn plan that covers a problem too long left to its own noisy devices.

I cannot see how anyone on this floor can hear his way clear to oppose the measure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARTER. Yes; I yield to my colleague from Minnesota.

Mr. NELSEN. I think the answer to the question of the gentleman from Iowa is that the manufacturer, if he puts a piece of equipment up for public sale that violates the standards, he would be subject to the fine.

Mr. CARTER. That is right.

Mr. NELSEN. Mr. Chairman, if the gentleman will yield further, the individual involved in this case, the young fellow with that loud motorcycle that you and I dislike so much, he would be regulated by local ordinances, if there are any.

Mr. CARTER. Yes; and the right of a person to bring up this objection in Federal court.

Mr. GROSS. Mr. Chairman, will the gentleman yield further?

Mr. CARTER. Yes; I yield further to the gentleman from Iowa.

Mr. GROSS. That is a substantial part of the argument against this bill, that States and municipalities can get this job done if they want to do it by State laws and ordinances.

Mr. CARTER. I hate to disagree with my distinguished friend, but they have not done it in the past 100 years and we are taking this opportunity to assist them in doing this.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. ROGERS), the author of the bill and the chairman of the subcommittee.

(Mr. ROGERS asked and was given permission to revise and extend his remarks.)

Mr. ROGERS. I thank the gentleman the University of Tennessee reflected the fact that 40 percent—40 percent, mind you, of the freshman class coming into a university—had a hearing disability. The experts that were conducting those studies could not believe it. They said, "We think it is impossible." So they said, "Let us recheck all of our equipment, let us make sure that our methods and protocol of doing this testing is strictly in order."

The next year, after all of that checking and when the freshman class was checked, it was not 40 percent, it was 60 percent.

Now, the experts also tell us that unless we begin to attack this problem of noise in this country, by the year 2000 we may expect that three-fourths of the people of this Nation will have significant hearing impairment.

So, this is not just a problem that someone is dreaming up to try to solve. It is here with us now. One of the reasons it is with us is because of our urbanization where by the year 2000, 85 percent of the people in this Nation will live in close proximity to each other.

The major factor which accounts for the rise in noise levels and the number of areas in which disturbing noise levels exist is simply the increase in the number of noise sources. Sounds of the past, which were once regarded with affection as agreeable signs of business and human activity, have been replaced with the shriek and clank of the subway, the deafening sounds of pneumatic hammers, construction equipment, traffic, jet planes, and electronically amplified sound that becomes noise when one has

Mr. NELSEN. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. CARTER. I thank the gentleman from Minnesota for yielding this additional time.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to my distinguished friend from Iowa.

Mr. GROSS. Where is the excluding language in section (B)? I am looking at page 50 of the bill, section (B), the language that applies only to, did the gentleman say, combat airplanes or combat equipment of other kinds?

Mr. CARTER. That is excluded. That is not included, I will say to my good friend from Iowa.

Mr. GROSS. That is not included, but everything else is included?

Mr. CARTER. That is quite true. Yes, sir.

Mr. GROSS. In other words, if some young fellow took the muffler off his motocycle or opened the exhaust pipe to a direct outlet, he would be subject to a fine of $25,000. Is that right?

Mr. CARTER. I hardly think they would see fit to fine him that much, but he would be subject to a fine.

Mr. GROSS. He would be subject to a $25,000 fine; yes or no?

Mr. CARTER. I do not think that that would happen and I doubt if the gentleman from Iowa thinks that. The municipality, county, or State would have jurisdiction in case of the young man.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

for yielding, and will say, first of all, I want to commend all the members of the subcommittee who devoted a great deal of time to this subject and to hearing a great many witnesses.

Mr. Chairman, I rise in support of H.R. 11021, a bill which our Subcommittee on Public Health and Environment developed after careful consideration. It is our belief that this bill will assure an environment free from noise that injures the public health or welfare.

Mr. Chairman, I believe that the chairman of the full committee (Mr. STAGGERS) has given an excellent summary of the provisions of this bill, and his explanation need not be repeated. I would like, however, to briefly comment on the reasons why this bill is vitally necessary and give the Members the reasons why, in the opinion of the subcommittee, certain provisions of this legislation are vital to an effective national noise abatement program.

Although the effects on the environment caused by air and water pollution are more noticeable today than the effects of noise pollution, many responsible environmentalists believe that we are on the verge of a noise crisis which can be avoided only through prompt, affirmative legislative action.

As a matter of fact, Mr. Chairman, the experts tell us now that the noise level in this country in the last few years has increased 20 decibels, and in some urban areas it appears to be getting noisier at double that rate.

Recently, experiments conducted at to listen to it against his will. Thus, if the overall noise level in the United States is to be lowered, much of the abatement and control must be applied to the noise source itself. This is the principal premise on which this legislation is based.

I believe that the provisions relating to the limited effect of the "preemption" section—Section 6(d)(1)—deserve explanation.

Under this section, States and localities are affected only with respect to "new products" to which Federal standards apply. A "new product" is defined in the bill as a product the equitable or legal title of which has never been transferred to an ultimate purchaser. Thus, the only effect on the authority of States or their political subdivisions is that they are preempted from prescribing noise emission standards for new products to which Federal standards apply, unless their standards are identical to the Federal standards. A similar provision applies to component parts. For products other than new products to which Federal standards apply, State and local governments retain exactly the same authority they would have on absence of the standards-setting provisions of the bill. The authority of State and local governments to regulate the use, operation or movement of products is not affected at all by this bill.

Second, I believe that comment on the relationship between the EPA and the FAA with respect to aircraft noise emissions may be helpful.

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The committee has established procedures whereby it is intended that a combined EPA–FAA effort will have the effect of protection of the public from excessive aircraft noise, a nationwide complaint. FAA and EPA presently have a formal relationship with respect to emission of air pollutants from aircraft, but no such arrangement exists with respect to noise pollution. The reported bill establishes such a relationship. The bill retains the authority of the FAA to establish such standards, but adds the requirement that they may not be prescribed before EPA has been consulted concerning the standards.

The FAA should have final responsibility for setting aircraft noise standards because a comprehensive and detailed knowledge of aviation technology and flight operations is essential to setting achievable standards. Federal Air Regulations part 36, the FAA noise rule, was developed on the basis of foreseeable, technological advances which could be applied to newly designed aircraft. At the time of publication of part 36—1969—the standards set reduced existing noise levels for all new subsonic jet aircraft appreciably, from about 120 EPNDB—effective perceived noise decibels—to 108 EPNDB. New aircraft, including the 747 and DC–10, have met these standards. In addition, the FAA has several regulatory actions in progress which will eventually reduce noise from all types of aircraft including sonic boom.

Final decision authority with respect to any standards affecting the aviation industry can realistically be vested only in an agency thoroughly knowledgeable of will get any subways built? It might be a good thing if we did not.

But will we get subways built and highways built?

Mr. ROGERS. Let me say to the gentleman that of course there may be items you cannot do anything about.

Mr. GROSS. Does this bill cover--what do you call it?—rock music?

Mr. ROGERS. Yes; it could.

Mr. GROSS. I can tell you that can just about tear your head off if you remain long enough where it is being played.

Mr. ROGERS. I will agree with the gentleman, and the gentleman from Kentucky (Mr. CARTER) took particular interest in that. It is true that one of the most damaging of noise sources is rock music because it is amplified so loudly.

Mr. GROSS. Does the $25,000 fine apply to that?

Mr. ROGERS. It could, if standards are set on the equipment that amplifies it. EPA may set a standard respecting amplifiers; of course, we do not know as yet whether it will. That is one of the things they undoubtedly are going to look into.

Mr. GROSS. You are going to spend $26 million on that?

Mr. ROGERS. No; it is not $26 million per year; it is for a 3-year term and covers much more than that.

I think the gentleman will be pleased with what the committee has tried to fashion in a reasonable way, and with a relatively minor amount of money, considering the bill's implications.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

this proposal which will not allow the EPA to do anything about any equipment that is already in existence?

Mr. ROGERS. Yes. That is, as I recall, the enforcement section goes only to products manufactured after the date of enactment.

Mr. WAGGONNER. I want to be sure, now; EPA will have no authority to come back and require any owner of any equipment, or factory or construction people, to modify their presently existing equipment hereafter by the establishment of certain standards?

Mr. ROGERS. That is correct, because EPA can enforce its standards only with respect to a new product, for any new products manufactured after a certain date.

Mr. WAGGONNER. All right; it is for new products?

Mr. ROGERS. That is correct. To enforce standards with respect to noises emitted from "old" products, your local communities or your State, could continue to do anything they want to.

Mr. WAGGONNER. I am going to get to that point in a minute, because I think there is a proposal in here that does away with any State or local authority where they differ from any standards that the Federal Government hereinafter may promulgate.

Mr. ROGERS. Only on new products at the manufacturer's level.

Mr. WAGGONNER. Now this has to do with construction equipment; transportation equipment; motors or engines, or equipment of which motors and engines are integral parts; and electrical or electronic equipment; is that correct?

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all possible impacts and consequences. The FAA is the only agency in Government which has such knowledge. The FAA is taking regulatory action as the state of the art will permit; its actions will be advised upon and oversighted by EPA. Also the Subcommittee on Public Health and Environment will closely monitor action by FAA and EPA in the noise abatement field.

Mr. Chairman, it is essential that action be initiated now, so that a national "environmental crisis" does not develop with respect to noise as has been the case with other environmental insults. The committee is of the opinion that the legislation proposed will insure that this environmental issue is met adequately and in a timely manner so that maximum effectiveness can be achieved and that the costly consequences of a failure to act will not be the case in this instance. I urge the bill's adoption.

Mr. Chairman, this bill lays the foundation to begin to do something which will be significant to the health of the people of this Nation.

I think you are going to be very proud of this piece of legislation, because it is a significant piece of legislation and will protect the health of the people of this Nation.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Iowa.

Mr. GROSS. So, I suppose we are going to have to wait for silent piledrivers and other heavy construction equipment? I wonder if in the meantime we

Mr. ROGERS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman for yielding.

I do not believe that anyone would purposely try to prevent the initiation of any program which would help us solve for now and for the future the problems having to do with noise.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. STAGGERS. Mr. Chairman, I yield 5 additional minutes to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. WAGGONNER. But the matter of we go about this seems to me to be most important, and this seems to be all the more important since the Environmental Protection Agency seems to be destined to have a great deal of authority here. I am not quite sure that we can be very proud of what the EPA has done in solving some of the problems in some of the other areas we have given them authority over, having to do with water and air pollution, for example. They have not used much commonsense. They have been rather impractical.

Now I would like to ask a number of questions.

First of all, this proposal has only to do with the manufacture of new equipment and the standards which will relate to them?

Mr. ROGERS. That is correct.

Mr. WAGGONNER. There is a grandfather clause then intended to be part of

Mr. ROGERS. Those are the main categories. But if in the study they identify any other major noise factors, they could also set standards for those at the manufacturers' level.

Mr. WAGGONNER. What I am getting at is—this has not only to do with the products that a man might now manufacture, but the equipment that the plant might utilize in the manufacture of that product; am I correct?

Mr. ROGERS. No; this goes to the new product itself. It does not go to the type of equipment used to manufacture a product.

Mr. WAGGONNER. What about a new piece of equipment that the manufacturer uses as an integral part of a motor in the manufacture of products or some other product for sale—that manufacturing equipment would be included; would it not?

Mr. ROGERS. If it is a new manufactured piece—whoever manufactured it; yes.

Mr. WAGGONNER. The gentleman spoke a minute ago about a study that had been done at the University of Tennessee. Is the gentleman saying, after his response to the gentleman from Iowa, that the EPA agency headed by one man can, if he concludes after what we hope would be proper investigation, set forth standards having to do with the manufacture of musical instruments establishing the maximum noise level at which these instruments could or would perform?

Mr. ROGERS. Well, they would have

to be performance standards, as I am sure the gentleman would realize.

Mr. WAGGONNER. That is just what I am talking about—"have to perform at standards."—At whose standards? The operator of some discotheque, EPA or somebody else?

Mr. ROGERS. I might say, this committee generally requires performance standards, as you have in the Clean Air Act.

What I think they would go to is not so much the musical instruments as the amplifier—that is the main problem.

Mr. WAGGONNER. And that is an electronic instrument?

Mr. ROGERS. Sure. So I think EPA will take a look—I would hope they would—at these amplifiers so that if you go into a place, you will be assured that you are not going to be deaf when you come out. This, I am sure, they will look at.

Mr. WAGGONNER. I would bet that if we put this vote off today and let the young people of this country know something about it, you would get more protests against this legislation in 24 hours than you could answer—because they do not know that this is intended to be a part of this bill.

Mr. ROGERS. I do not agree with the gentleman at all. I do not think that is correct. I think the young people would welcome this as much as anyone else.

Mr. WAGGONNER. I do not think they would welcome a ceiling on the output of these musical instruments.

Let me talk to you about another section—with reference to citizen suits. This legislation provides for citizen You have only an hour of time here and some of us are entitled to talk about this bill.

Mr. ROGERS. I thought perhaps we could do that at the time of consideration of amendments.

Mr. WAGGONNER. All right, now let us talk about matters not being discretionary. Let us assume that the FAA with the help of EPA establishes noise levels for planes coming into Washington National Airport or into any airport.

Now this is discretionary on their part, as I understand the bill that is presented to us today. If, in their discretion, they establish a noise level at which these planes are allowed to perform, would a citizen suit be in order because the administrator of FAA or EPA had used their discretionary authority to do it?

Can somebody who lives close by or in the traffic pattern of an airport enter a suit to stop those flights?

Mr. ROGERS. That would be discretionary and there could not be a suit.

Mr. WAGGONNER. It is discretionary and there could not be a suit?

Mr. ROGERS. There could not be a suit.

Mr. WAGGONNER. I am just trying to get these things clear. That is all I am trying to do.

Let me ask this question. The other day we passed a bill providing for the establishment of a Federal Legal Services Corporation. These are to be attorneys representing supposedly the disadvantaged. Is the Federal Government going to be in the position of allowing

Mr. ROGERS. I think this is one of the areas where they say that we need further study, and that is why we provide for further study in these various categories.

Mr. WAGGONNER. Do you not think that the Congress is getting on awfully dangerous ground when we say that we have a problem, that you in EPA should do something about it, do what you think ought to be done? Do you not think that we ought to make EPA come back and get congressional approval for what they do finally propose to do?

Mr. ROGERS. We are telling them exactly that. We are telling them also that this is a 3-year bill, that we will look at it again in 3 years, and that is why we have a 3-year bill. This committee will watch very carefully.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER assumed the chair.

The SPEAKER. The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on February 15, 1972, the President approved and signed bills of the House of the following titles:

H.R. 7987. An act to provide for the striking of medals in commemoration of the bicentennial of the American Revolution;

H.R. 11487. An act to authorize the Administrator of the National Aeronautics and

suits. This it appears is intended to be available to any one individual who feels that his hearing is being affected or that he is being kept awake at night because of some noise in the next block from some construction job or something such as that. That man can enter a citizens suit against the EPA, for example; is that correct?

Mr. ROGERS. There is a provision for a citizen suit in the EPA or against the FAA but it goes only to matters that are not discretionary.

Mr. WAGGONNER. Will the gentleman tell me exactly what he means when he says—only to matters that are not discretionary?

Mr. ROGERS. For instance, where an Administrator is required by law to do something that is not within his discretion—for instance, if a law requires that a study shall be made by such and such a date and if he has not done that study by that date a citizen could bring a suit and ask why have you not done the study?

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. WAGGONNER. Let me pursue this a little bit further.

Mr. ROGERS. All right, but I do want to try to cover some of the answers here.

Mr. WAGGONNER. These gentlemen have been on the committee and the gentleman has been at the hearings. suits such as are provided for in this proposal to be entered against the Federal Government by those attorneys?

Mr. ROGERS. This does not go to that. The gentleman knows that. That is OEO. The gentleman may have supported that bill. I did not.

Mr. WAGGONNER. No; the gentleman did not.

Mr. ROGERS. Neither did I. But this does not go to that.

Mr. WAGGONNER. The gentleman is aware that there is no limitation in the OEO legislation that did pass the House to prevent those attorneys in the Legal Services Corporation from entering suits against the Federal Government, is he not?

Mr. ROGERS. We cannot help that. That is in another piece of legislation, as the gentleman knows.

Mr. WAGGONNER. It seems to me that you are aggravating another problem, then, by allowing citizens suits here.

Mr. ROGERS. The fact is that the provision applies with respect to nondiscretionary matters. Discretionary matters are not subject to citizens suits.

Mr. WAGGONNER. The report makes reference to a report by the President to the Congress dated January 26, 1972. Can the gentleman or can anyone on the committee tell me what that report has to say about how much equipment in operation today, in the four categories that you give the EPA authority to establish the emission levels, they presently believe exceeds the acceptable noise standards?

Space Administration to convey certain lands in Brevard County, Fla.; and

H.R. 12488. An act to change the name of the Columbia Lock and Dam, on the Chattahoochee River, Ala., to the George W. Andrews Lock and Dam.

The SPEAKER. The Committee will resume its sitting.

The Committee resumed its sitting.

NOISE CONTROL ACT OF 1972

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. I thank the distinguished Chairman for yielding.

Just as the committee rose a moment ago, the gentleman from Florida said there was a great deal that we did not know about what needed to be done, and as a result, we needed to do an awful lot in the way of studying the problem before we took some specific action.

I would like the gentleman to look at page 38 of the committee report, paragraph (b)(2). Among other things, down at the bottom of the page, we see that the EPA Administrator is going to be required to consult with such Federal, State, and interstate agencies as he deems appropriate.

Now, what would lead us to believe that knowledge exists within the Federal Government alone, and that people in industry would not have some capability? Why is not the Administrator required to consult with industry sources who have had years and years of expe-

rience, with medical authorities, as well as to consult with Federal sources?

Mr. ROGERS. This is present law the gentleman is talking about in the report.

Mr. WAGGONNER. I am talking about the language which is going to replace it. You say you must, under the new proposal, "consult with such Federal, State, and interstate agencies as he deems appropriate." Why not consult with industrial and medical authorities as well?

Mr. ROGERS. I think you will find that that is in present law that the gentleman is referring to on page 38.

Mr. WAGGONNER. No, it does not. Look at the language. It is deleting the word "administrator" and adding this other language.

Mr. ROGERS. All we are omitting are the word "administrator" and the word "rules." The section to which the gentleman refers only shows changes in existing law.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado.

Mr. BROTZMAN. Mr. Chairman, I take this time for the purpose of asking a few questions relative to the preemption section of this particular bill. If I could have the attention of the gentleman from Florida, I am referring to the preemptive sections of the bill to be found on page 41. As I read this legislation, I think the gentleman from Florida referred to it heretofore, it is my understanding that this law is designed basically to control products in the hands of the manufacturer and that as the particular product goes into the hands of the user—in other words, title has apply as far as those products are concerned?

Mr. ROGERS. If the ordinance is a zoning ordinance, it would not be affected. We are not changing that authority. Of course, all ordinances of this type are subject to constitutional provisions and review as to whether they are reasonable or too limited, and whether they would constitute a burden on interstate commerce.

Mr. BROTZMAN. I thank the gentleman for his response.

Mr. Chairman, I have discussed this with the gentleman from Texas, and I yield now to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his interest in this subject matter. Also I thank the committee for the work they have done on this bill.

The gentleman knows I have had some question about this provision of preemption. As a matter of fact, I offered an amendment in the committee, but I am thoroughly satisfied, in examining the committee's report, that it satisfies the objections I might have had. I went into the question of the right of a local community to control use within that community.

I have a few questions to make a bit of legislative history on this matter, if I might address them to the chairman of the subcommittee.

Mr. ROGERS. I shall be glad to try to answer.

Mr. ECKHARDT. Suppose there is a law in the State of New York that states any vehicle in the State of New York shall not be so constructed as to cause

Mr. ECKHARDT. Now, suppose the State of Texas should, unlike the State of New York, enact a law directed wholly at the use of a certain product. For instance, suppose it prohibited the use of motor boats on certain lakes of heavy residential development. Could this be done?

Mr. ROGERS. Yes, very clearly and particularly, under subsection (d)(2) of section 6.

Mr. ECKHARDT. Now, suppose the State of Texas should attempt to accomplish essentially the same thing as the New York statute concerning pile drivers was intended to accomplish, but suppose the Texas statute controlled use instead of production or assembly. Thus, Texas provides that no pile driver shall be used within the confines of the State of Texas which has a noise emission level above a certain number of decibels. Could the State so regulate?

Mr. ROGERS. Yes. Though a noise emission limit is provided, it is not applied in the area this bill is designed to control; that is, primarily the manufacture of equipment with a certain noise potential. The preemption provision in section 6(d)(1) applies only to State regulation of "new products," and "new product" is defined in section 3.

Of course, we do know all of this would have to bear any constitutional overview as to the commerce clause and requirements that statutes be reasonable and not a burden on interstate commerce.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. WYDLER).

(Mr. WYDLER asked and was given

passed—the product is then vulnerable to both the State and its political subdivision's regulation.

My specific problem relates to the fact that in Boulder, Colo., the city council under the aegis of a Colorado law has passed an all-purpose type of ordinance which, I believe, will be more restrictive in some of its application than would be the proposed regulations by the Environmental Protection Agency. The City Council of Boulder has passed a resolution asking the Congress to be sure that this ordinance of the city of Boulder will not be preempted by this particular bill. I think that states the general problem. I would ask the gentleman if this bill is passed, would the Federal law preempt that local ordinance?

Mr. ROGERS. The only things we are preempting, are new products for which the administration has set standards. We are not changing the present authority of States and localities to enact their ordinances with respect to use.

I think the gentleman would notice in the bill, on page 41, that we actually state:

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to control, regulate, or restrict the use, operation, or movement of any product.

Mr. BROTZMAN. To state it another way, if the ordinance applied to noise caused by a jackhammer owned by somebody in Boulder, or a car, or a stationery motor, then the ordinance would, in fact, noise at the level above a certain number of decibels.

Then suppose H.R. 11021 becomes law, but the Administrator has not yet prescribed a regulation setting a limit on noise emissions from pile drivers. May then the State continue to enforce its law?

Mr. ROGERS. Yes; because really the preemption clause contained in section 6 (d) (1) only prohibits a State or a political subdivision from adopting or enforcing any law or regulation "with respect to any new product for which a regulation has been prescribed by the Administrator." In the instance the gentleman recites, the Administrator has not even prescribed any regulation.

Mr. ECKHARDT. That is right. Suppose the Administrator subsequently prescribes a regulation governing the noise emission of pile drivers? What is the situation then?

Mr. ROGERS. In that instance, since the State of New York is purporting to include in its regulation emission controls with respect to a "new product" which has never been transferred to an ultimate purchaser, the preemption clause would preclude New York from doing that.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. NELSEN. Mr. Chairman, I yield the gentleman from Colorado 1 additional minute.

Mr. BROTZMAN. Mr. Chairman, I yield to the gentleman from Texas.

permission to revise and extend his remarks.)

Mr. WYDLER. Mr. Chairman, I rise in support of this legislation and I want to compliment the committee on what I believe has been a very competent and very far-reaching job in this whole area of noise control.

I am delighted to see the effort which was made particularly by the chairman of the subcommittee on the issue of jet noise. I know that he went into this subject matter very thoroughly, and he himself in many cases, as I have read the report and the record of hearings, was a protagonist who was looking deeply into this question of jet noise.

I was very much impressed by the hearings and the report of the committee. But nevertheless I feel that in the final analysis, although the committee considered many steps that could be taken in trying to fight jet noise, they settled on a proposal and a course of action which is really going to fall short of the mark and not do the job for the American people in an area where it should well and could well be done.

I will not argue that the FAA is not a competent agency to work on the problems of aircraft in general or the problems of jet noise. Certainly they have a competence in this field. The problem is, however, although they have competence they have shown to the Congress of the United States and to the American people a complete and utter lack of willingness to use the authority which we give them

to set the limits on jet noise which they should be setting.

In other words, Mr. Chairman, it is not enough to say that the FAA is competent to do the job. The question we have to answer in this House today is whether the FAA intends to do the job and intends to do anything to utilize the powers that we gave them or whether they intend to remain, as they apparently have over the years, a very willing partner of the airline industry in keeping effective regulations from being put into effect.

Mr. Chairman, if you will look at the record of the FAA in this field, you will see that what I am saying is a fair and just statement. The Congress three and a half years ago in 1968 passed a bill which would have given and in fact did give the FAA the power to take action in the area of reducing jet noise for presently flying aircraft. Those are the aircraft making the noise and the aircraft which will be making the noise for the next decade or 15 years. We gave to the FAA the power to reduce noise in those aircraft and set limits which could have meant that they would be retrofitted with noise suppression devices to bring the levels of noise down. For three and a half years the FAA stalled us and the American people and has taken the position that industry wanted them to take and done nothing.

This does not go to the competence of the FAA to set the standards but, rather, goes to their lack of desire to set the standards. In that area, Mr. Chairman, they have let us and the American people down. That is why I say today that

Mr. WYDLER. I yield further to the gentleman.

Mr. GROVER. I did want to ask the gentleman, in the past several years since attending those hearings, whether anything has been done in that area in that particular location in New York.

Mr. WYDLER. The sad answer to the gentleman's question is "No," because we have to get on with the job of retrofitting our currently flying aircraft, and there was no desire in FAA to do that. As a matter of fact, there is a complete indication here in Mr. Schaffer's statement that they do not intend to do anything about it. I have been after the FAA for the last three and a half years trying to get them to start procedures—just start rulemaking procedures—to set limits. Promise after promise has been made to me that they would start their procedures on such and such a day and do this without fail. Yet right up to the present time they have refused to undertake it.

All I am asking the committee to consider—and I think they should consider this—is not to throw the FAA out of the picture but, instead, to put the EPA in the driver's seat. Let them take control of the situation so that they can get the procedures moving and get us on the way to solving the problem.

Mr. ROGERS. Will the gentleman yield?

Mr. WYDLER. I will be glad to yield to the chairman of the subcommittee.

Mr. ROGERS. I have shared the concern of the gentleman from New York. However, I will say to the gentleman that we went into the problem in some detail

pertise in FAA. We have tried to bring EPA into it as strongly as we can without risking safety so they can alert the whole public.

I can assure the gentleman that we will be on top of it and that we will work with EPA and FAA.

Mr. WYDLER. I know that the intentions of the gentleman are good, but I think the EPA has access to the expertise, if they utilize the people in FAA, and I am sure that FAA will not withhold their counsel and advice.

Mr. ROGERS. Let me give you an example. EPA came forth with the proposal before our committee that FAA should have to set a noise standard every time any type certificate was issued. Does the gentleman know how many type certificates are issued for an aircraft? There could be 200 or 300 certificates. EPA simply does not have the competence at the present time. They simply do not have the knowledge yet, but they will.

We will look into this in 2 or 3 years and we will change it if need be, and I assure the gentleman we will stay on top of it.

Mr. WYDLER. I just do not want the people to suffer for 2 or 3 more years, Mr. Chairman.

Mr. NELSEN. Mr. Chairman, I have no further requests for time. However, I do have a couple of minutes left and I am happy to yield the balance of our time to our distinguished chairman of the full committee.

Mr. STAGGERS. I thank the gentleman from Minnesota.

Mr. Chairman, I yield 1 minute to the

the bill you are presenting to us, although it is hopeful and with good intentions, will not do the job.

Just a few days ago, to make matters worse, the Administrator of the FAA, Mr. Shaffer, made a speech in New York City, which was reported in Aviation Daily. He stated that he considers jet noise will not be an issue by 1978. I do not know what he means by that. We have clear testimony before my Committee on Science and Astronautics that this matter will certainly be a national issue in 1978 and for years thereafter. Mr. Shaffer indicated at that meeting he did not think it was a wise use of money to retrofit airplanes in fact. He thinks it is a waste of money, to do it.

Mr. GROVER. Will the gentleman yield?

Mr. WYDLER. Yes. I yield to the gentleman.

Mr. GROVER. I attended a couple of years ago some ad hoc hearings that the gentleman sponsored, and I know he has been one of the leaders in the Northeast in attempting to get a handle on this matter of aircraft noise. He had some hearings at very appropriate locations. For example, at the end of runways, with a decibel machine, and one that I attended in a schoolroom. I was really shocked at that time to see the impact, the disruption in the classrooms and the disorder created by the jet noise made in these areas near the airport.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I yield the gentleman 2 additional minutes.

and this was one of the thorniest ones we had to decide. I think the committee did exercise proper judgment in saying that the final decision will be left with FAA. However, we have cranked in EPA right in the beginning and require them to advise and consult with FAA. If EPA is not satisfied as to what FAA has done they can request FAA to revise its actions. Then if EPA still is not satisfied, they can require that the disagreement and supporting data be made part of the public record and alert the whole Nation to the problem.

Mr. WYDLER. Although you give EPA a consulting role they cannot do anything unless FAA takes some action.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield further, first of all, the law will require that issuance of original-type certificates must, in most instances, be preceded by issuance of noise standards to protect the public. This requires action.

Second, at any time EPA thinks there has been inaction, EPA can direct FAA to review existing regulations and in this way make "inaction" a matter of public record which puts it in immediate controversy.

What we have tried to do is to be realistic.

We think FAA with reference to noise from aircraft in the air must have a final say on this problem. Frankly, I do not think EPA yet has the competence to move into this area. They do not know all of the intricacies involved in the design of aircraft or flight patterns and other matters, but there is presently ex-

gentleman from Illinois (Mr. MIKVA).

(Mr. MIKVA asked and was given permission to revise and extend his remarks.)

Mr. MIKVA. I thank the distinguished chairman of the committee. I am in general support of the committee bill. However, at the proper time I will offer some amendments. But I think overall the bill is a good start in the right direction.

Mr. Chairman, I rise in support of H.R. 11021, the Noise Control Act of 1972. It is not as strong a bill as some of us would have liked—it is weaker, for example, than the package of noise abatement bills which I sponsored last March—but it is a long step in the right direction.

Noise pollution is not visible. We cannot taste it or breathe it. But we can feel it—psychologically, physically, and financially. According to the World Health Organization, accidents, absenteeism, inefficiency, compensation claims and industrial clatter resulting from noise pollution cost about $4 billion a year in the United States. Even that stark statistic does not begin to convey the disruptive impact of noise pollution which is all too evident to those of our fellow citizens who reside near our major airports. To the people who live around O'Hare Airport outside of Chicago, this bill offers a belated glimmer of hope for some relief from the noise pollution which so profoundly affects their lives.

In 1970, Congress directed the Environmental Protection Agency—EPA—to conduct a full study of the effects of noise on the public health and welfare,

But we are now confronted with the prospect that our very progress may have led us—not to the American dream—but to the American nightmare.

Advancing technology has brought smog to our cities; blackened and dying waters to our lakes and rivers. And it has brought its own fanfare—an ever increasing din that disturbs our sleep, interupts our conversation, creates anxiety and annoyance, and adversely affects our physical and mental health.

The hazards of this obnoxious and intrusive noise cannot be overstated. Excessive exposure to noise can result in temporary and even permanent loss of hearing. Research has shown that high levels of noise can have adverse respiratory, glandular, cardiovascular, and neurological effects. Noise can be a cause of accidents by masking auditory warnings and by increasing annoyance and fatigue and decreasing alertness. It can even influence property values.

Too often the hazards of noise are thought of only in terms of permanent ear damage. But any standard relating to noise control must take into account the full range of ways in which excess noise can adversely affect an individual's well-being. It is well to note that the World Health Organization defines health not merely as the absence of infirmity and disease, but as a state of complete physical, mental, and social well-being.

Unfortunately, the problem of noise control has not been taken seriously enough. Perhaps, as Robert Alex Baron, the author of the "Tyranny of Noise," has suggested, we might have become

In the 91st Congress I introduced legislation to begin a vigorous, comprehensive Federal program for the control, abatement, and prevention of noise. That legislation—the Noise Control Act of 1970—was cosponsored by 20 Members of the House. It provided for the establishment of an Office of Noise Control, a Noise Advisory Council, and an extensive program of grants to State and local governments for noise research and control efforts.

This legislation was in part embodied in the Clean Air Act Amendments of 1970 (Public Law 91-604) which mandated the establishment of an Office of Noise Abatement and Control within the Environmental Protection Agency.

On February 8, 1971, I conducted an ad hoc congressional hearing on the problem of noise pollution in New York City. The proposals brought forward at that hearing, together with my past involvement in the area of noise control, and consultations with various experts, led to the development of the comprehensive legislative package for the control, abatement, and prevention of noise which I introduced on behalf of myself and more than 35 Members of the House on March 30, 1971.

This package—The Noise Abatement and Control Act of 1971 (H.R. 6986 and H.R. 6987); the Noise Disclosure Act (H.R. 6988 and H.R. 6989); the Occupational Noise Control Act of 1971 (H.R. 6990 and H.R. 6991); and the Office of Noise Abatement and Control appropriations bill (H.R. 5043, H.R. 6984 and H.R. 6985)—provided a tough, realistic, effective means to combat noise and its hazmachinery which contributes to, or may contribute to, noise which endangers, or contributes to endangering the public health and welfare.

The committee bill has significantly strengthened the provisions relating to standards suggested in the administration-sponsored legislation (H.R. 5275) and has made them much more akin to those in my legislation. Under the committee bill, the Administrator is directed to set noise emission standards on new products which he has identified as major sources of noise for which noise emission standards are feasible and which fall in one of the following categories: construction equipment, transportation equipment, any motor or engine, and electrical or electronic equipment.

As we are all too well aware, without adequate enforcement even the best of laws can be of little more use than scraps of paper. One of the strong concepts enacted into law in the landmark Clean Air Act Amendments of 1970 was recourse for beleaguered private citizens or groups which failed to obtain relief by means of a complaint to the appropriate Federal agency. And I am pleased that the committee has included my citizen suit provision which allows any person to commerce civil action against an alleged violator of the act or against the Administrator, where there is an alleged failure of the Administrator to perform a nondiscretionary act or duty. Such actions cannot be commenced prior to 60 days after notice is given—more than adequate time for the Administrator to initiate action on behalf of the Government.

The largest contractor in this coun-

more alarmed if noise had a name like "acóustic radiation."

But whatever the reason for our past tolerance of an increasingly intolerable condition, one thing is clear—we cannot allow this problem to continue unabated.

Noise and the damage it produces have been growing at an alarming rate. Ambient noise levels in midtown Manhattan already are in excess of 80 decibels. Urban noise has doubled since 1955 and is expected to double again by 1980. And evidence presented at a meeting last June of the International Standardization Organization in Geneva, Switzerland, indicated that if this increase continues, every urban dweller will be deaf by the end of this century.

Clearly, the time to act is now.

Noise and its hazards do not have to be the price of progress. Just as for any other form of pollution, the control of noise is not a matter of what we are able to do but of what we are willing to do.

The same technology which has led to the saturation of our communities which abusive noise, can be put to use to promote a quiet and tranquil environment. Technology is at hand for noise control. What must be done is to apply it to everyday use on our streets, in our factories, on our airways, in our offices, and in our homes.

The right to a quiet, peaceful environment free from the intrusion of unwanted and harmful noise is as basic as the right to clean air and water and pure food. And Government at all levels has a responsibility to insure that this right is safeguarded.

ards.

I am deeply gratified that a significant number of the provisions of this legislation have been incorporated by the committee into the bill before us today (H.R. 11021).

Specifically, my legislation (H.R. 6986) directs the Office of Noise Abatement and Control to coordinate the efforts of the Federal Government that relate to noise control, abatement, and prevention. To this end all instrumentalities, agencies, and Departments of the Federal Government are directed to furnish the Office with such information as it may require. Further, each such Federal entity is directed to carry out the programs within its control in accordance with the purposes of the act—the creation of a quieter environment. In any case where an agency of the Federal Government is carrying out or sponsoring an activity which is detrimental to the public health and welfare, such agency must consult with the Office to determine possible means of abating the offending noise. And the Office is to compile and publish a regular report as to the efforts and activities of the Federal Government and its instrumentalities, agencies, and departments in regard to noise.

The committee-reported bill fully incorporates these provisions, although it vests authority in the Administrator of the Environmental Protection Agency rather than specifying the Office of Noise Abatement and Control.

My Noise Abatement and Control Act directs the setting of noise emissions standards for any machine, or class of try—for services, for goods—is the Federal Government. My Noise Amendment and Control Act provides that this tremendous Government purchasing power be used, just at it is used in the Clean Air Act Amendments of 1970, by providing that each Federal agency which enters into contracts or extends Federal assistance by way of grant, loans, or contracts, is to effectuate the purposes of this bill—a quieter environment. Such a procurement policy would greatly lower the level of noise in our communities and serve as incentive to manufacturers to produce more quiet products.

Significantly, the commitee bill has recognized the need for this approach, and has included a section mandating the use of low-noise emission products by Federal agencies.

Both my legislation and the committee bill authorize technical assistance to State and local governments to facilitate their development and enforcement of noise control programs. And both our bills provide for the publication and dissemination to the public of information relating to the control, abatement and prevention of noise.

The committee in its deliberations specifically rejected the Federal preemption provision contained in the administration's draft bill. That provision would actually prevent States and local governments from setting any noise emission standard different in any way from that prescribed by the Administrator—even if the State standard would be more stringent.

It is essential that States and local gov-

and to report to the President and to Congress. The Clean Air Act Amendments of 1970 also called for the formulation within EPA of an Office of Noise Abatement and Control to conduct the research for the study. Their report was released in January of this year. It did an excellent job of describing the effects of noise pollution on our society. It outlined the state of the art in antinoise technology, and provided examples of the efforts of Federal, State, and local governments to reduce the increasing levels of noise around the Nation. According to the report, these efforts up to now have been unsuccessful in controlling noise pollution, partly because of the lack of centralization and coordination. The report concluded that the Federal Government should take the initiative in antinoise activities, and it proposed legislation which was subsequently sponsored by the administration.

THE NOISE CONTROL ACT IS A SUBSTANTIAL IMPROVEMENT OVER THE BILL PROPOSED BY THE ADMINISTRATION

The administration's bill was not nearly strong enough in several key respects. It is to the credit of the House Interstate and Foreign Commerce Committee that the bill before us today is considerably stronger than the administration's version.

The Noise Control Act requires the Environmental Protection Agency to set noise standards for products that are major sources of noise pollution; the administration bill would have left standard setting to the discretion of the Agency.

Second, the bill before us now includes a broad classification of products which

H.R. 11021—A GOOD BILL THAT COULD BE BETTER

H.R. 11021 as it stands before the House now would empower the Federal Government to begin a coordinated antinoise program, but it is only a beginning. It is basically a sound bill, but it does not go as far as it might.

The most important deficiency in the Noise Control Act is the absence of any authority or funds for making grants to State and local governments to help them devise and implement noise pollution control programs, including demonstration projects. As the administration said repeatedly in testimony last year before the House Subcommittee on Public Health and the Environment, noise pollution must be attacked at the local level. State and local governments have attempted to deal with noise through antinoise ordinances and zoning laws, but their efforts have been unsuccessful in reducing noise levels in our urban communities. Local governments simply do not have enough trained personnel to undertake proper monitoring and enforcement.

H.R. 11021 will assist State and local governments in working out model State and local antinoise laws, but it will do little to help relieve the lack of resources which impedes enforcement of State and local laws. The report of the EPA's Office of Noise Abatement and Control, released in January, emphasized that—

One of the major problems in the state and local levels of government is that of enforcement. In general, noise statutes, no matter how well written, are rendered ineffective because most state and local programs are insufficiently funded and staffed . . . Unfortunately, enforcement

ment's antinoise programs, to provide both Congress and the public with a focal point for judging the success or failure of those programs.

Mr. Chairman, all of the improvements I have suggested can be found in the package of noise pollution control bills which I sponsored last March—H.R. 6985, H.R. 6987, H.R. 6989, and H.R. 6991. I am hopeful that some or all of them can be included as amendments to this bill or in separate legislation following the enactment of the Noise Control Act. I plan to offer two such amendments at the appropriate time, both relating to excessive noise from airplanes and airports. Hopefully, the bill will be strengthened by these and other amendments, but in any event, the Interstate and Foreign Commerce Committee is to be commended for taking the first step toward reducing the level of noise pollution.

CONGRESS MUST FOLLOW THROUGH WITH EFFECTIVE OVERSIGHT OF AGENCIES

The next crucial step will come when the appropriate administrative agencies—EPA and the Federal Aviation Administration—FAA—establish the specific standards and requirements called for in the act. By their actions, these agencies can make this a tough, effective bill or a farce. If the past is any guide, we are not likely to bring much relief to residents in the vicinity of our airports by turning over to the FAA the power to set noise standards for airplanes.

Congress has a continuing oversight responsibility to see that the agencies implement the policy as well as the provisions of the Noise Control Act. We

are judged to be primary sources of noise pollution. The administration version included only construction equipment, transportation equipment, and internal combustion engines, leaving a gigantic loophole since it excluded all forms of electrically driven machinery or electronic equipment such as electric motors and air conditioners. H.R. 11021 closes that loophole.

Third, the committee included in the bill a provision calling on the Federal Government to encourage the manufacture of more quiet machinery by establishing a Federal procurement policy. H.R. 11021 calls for EPA to certify low noise-emitting products, which then must be purchased in Federal contracts instead of their noncertified counterparts, if they are not more than 25 percent more expensive than the cheapest such product on the market. The Federal Government is the largest contractor for goods and services in the Nation, but the administration in its proposed bill completely ignored this obvious opportunity to promote the design of quieter products.

Fourth, the Noise Control Act gives individual citizens or citizen groups the right to bring suit for violations of the act. The right of citizens to bring suit is a significant weapon in the battle against all forms of pollution; it was included in the Clean Air Act Amendments of 1970, but it was conspicuously absent from the administration's proposed noise pollution bill.

strains the already overburdened budgets of many of the nation's cities.

I hope that ultimately the bill will include provisions for a comprehensive system of grants to States, counties, municipalities, and regional government bodies to develop and to implement noise abatement programs and projects.

A second important weakness in the bill reported by the committee is its ambiguity regarding the authority of the States to enact stricter noise pollution control requirements than those adopted by the EPA. We should apply the same principle here as we have in the field of air pollution, and leave the States free to impose more stringent standards than the minimum Federal requirements.

Third, the bill fails to require that all machinery carry a label stating its operating noise level. This would be an extremely useful tool to consumers in deciding which products to buy, and it would encourage manufacturers to design the most quiet products possible. The Noise Control Act presently before us requires noise labels only on those products which EPA judges to be potentially injurious to the public, or those which are marketed as noise reducers.

Finally, H.R. 11021 omits any reference to the EPA's Office of Noise Abatement and Control. This office has been doing a creditable job in the field of noise pollution research and control since its inception in 1970. It should be given the primary responsibility for coordination and enforcement of the Federal Government will watch with considerable interest the proposed regulations submitted by the EPA and the FAA in implementing the act. If they do their job and we continue to do ours, the citizens of the United States may see the promise of noise pollution abatement became a reality.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. RYAN).

(Mr. RYAN asked and was given permission to revise and extend his remarks.)

Mr. RYAN. Mr. Chairman, for far too long the problem of noise has been the stepchild of the environmental movement. It is an unfortunate fact that, although we have become painfully aware of the more visible signs of our rapidly deteriorating environment, the very serious hazard of excessive and injurious noise has often been overlooked.

Therefore, I want to commend the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. ROGERS) for his concern and his leadership in the effort to mount a major Federal assault against noise and its dangers.

The processes of pollution is one of the great ironies of our society. Many of our ancestors came to this country because of her great natural wealth and beauty. America was the land of plenty. And it became more so as we, as our fathers before us, turned this Nation into the most technologically advanced society in the world.

ernments be afforded the opportunity to protect their citizens from particular noise conditions. Standards set for national application must obviously and understandably be broad. They cannot be expected adequately to guard the health and welfare of all the people in the countless specific situations that occur in communities throughout the Nation. It should clearly be the prerogative, in fact, the responsibility, of the Federal Government to establish basic standards and to insist upon compliance throughout the Nation. However, State and local governments should be free to decide if more stringent standards should be applied within their jurisdiction.

Further, the establishment of total Federal preemption would have dismembered many of the significant noise control efforts that have already been undertaken by various States and localities. It has been argued that these levels of local government would still be free to use other means to combat noise pollution, such as zoning and time use requirements. However, these methods have proven insufficient in the past to come to grips with the problem of excessive noise. The only truely effective way to limit excessive and injurious noise is to limit it at its source—the noise generating product.

Therefore, my Noise Abatement and Control Act of 1971 provides that States may set more stringent, although not less strict, noise emission standards than those proposed by the Administrator.

Although the administration proposal was not adopted, there remained considerable uncertainty as to the exact

First, the committee bill does not include a program of grants to assist local governments in their noise abatement efforts. I believe that this oversight is particularly puzzling in light of the recognized fact that States and local governments have a large responsibility in the control, abatement, and prevention of noise. Yet there is no way of avoiding the fact that local governments are extremely hard-pressed for funds; and this pressure can only be relieved by the Federal Government.

Therefore, I intend to offer an amendment at the appropriate time to provide a comprehensive system of grants to State and local governments to develop, establish, and carry out noise abatement programs and projects. I believe that such a provision is essential to the mounting of a comprehensive noise control effort at all levels of government.

The committee bill fails to direct that the Office of Noise Abatement and Control be utilized to the fullest extent in carrying out the noise responsibilities under this act. In light of the urgent need for a specific focal point for the Federal Government's noise abatement, control, and prevention efforts, I intend to offer an amendment directing that this Office be fully utilized in the assault against noise pollution. The need for such specific language is best documented by reading the administration-sponsored bill (H.R. 5275) which specifically deleted the Office. Although the committee did not adopt the administration's language, it did omit any mention of this already established vehicle for noise control. Now that the Office has

quiet must be a factor in each and every purchase.

Further, such legislation would serve as incentive for manufacturers to produce products with quiet in mind.

Unfortunately, the committee reported bill limits the labeling of products to those "which emits noise capable of adversely affecting the public health or welfare; or which is sold wholly or in part on the basis of its effectiveness in reducing noise." I do not believe that there is any need to be so restrictive. The consumer has a right to know the noise emissions of every product he buys. I hope that the Senate will take a strong look at this provision and make it more inclusive when this legislation is before that body.

I also believe that it is imperative that the Environmental Protection Agency be the agency responsible for the setting of aircraft noise standards. The committee bill, however, merely gives the Administrator of EPA the authority to consult with the Administrator of the Federal Aviation Administration, while leaving the authority for setting standards within FAA. Unfortunately history has demonstrated the reluctance of the FAA to undertake a meaningful program of aircraft noise abatement. In fact, even most of the research being conducted into jet noise suppression is being conducted by NASA, not FAA. In light of this and the need for a single core for our Government's antinoise efforts, the power to regulate aircraft noise should be vested in the EPA rather than FAA as it is now. My Noise Abatement and Control Act would have mandated such an action.

degree of Federal preemption involved in the committee bill, which is now before us. Therefore, Congressman ECKHARDT and I intended to offer an amendment at the appropriate time which would have allowed States and local governments to establish noise emission decibel standards more stringent, although not less strict, than those set by the Federal Government. However, in light of the colloquy between Mr. ECKHARDT and the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. ROGERS) I feel that this amendment is no longer necessary. Their remarks make clear that the preemption provision in section 6(d)(1) of the committee bill applies only to State regulation of "new products."

"New product" is defined in section 3 as a product title to which has not passed to the first person who purchases the product for purposes other than resale. Thus, once a product for which Federal standards have been set is in the hands of the user, States and localities are not precluded by the committee bill from imposing their own noise emission decibel standards.

The legislative history now makes it clear that State and local governments have the right to regulate the licensing, use, operation and movement of noise sources by all means—including decibel limits once the product is in the hands of the consumer.

Although, as I have ponted out, the bill before us has many commendable features, there do remain several areas in which the legislation could and should be strengthened.

completed the report mandated by the Clean Air Act amendment, I fear that in the absence of legislative language to the contrary, the Office will be discontinued—a severe blow to the fight against noise.

One of the prime reasons that the level of noise has increased so greatly over the past few decades—having doubled since 1955—is that the consumer has been unable to obtain reliable information necessary to take noise as a factor when considering the purchase of a product.

Thus, I introduced the Noise Disclosure Act—H.R. 6988 and H.R. 6989—which requires that all new mechanical and electrical equipment transported in, sold in, or introduced into interstate commerce must have affixed to it a label or plate disclosing its operational noise level. The only items that could be exempted from this provision are those that have an operational noise level "so low as to be negligible" and as to which "information with respect to such noise level will not be of value to the consumer."

This bill would allow the consumer to know the noise-generating potential of any mechanical item he is contemplating buying, thereby affording him the opportunity to take that product's noise level into account as a factor in his purchase decision. Thus, he could choose not only the quieter of two automobiles but the quieter of two electric razors.

It is esssential that—if we are to lower the ambient noise in our communities—

I also regret that the committee bill excludes exports from those standards set by the Administrator. Although I recognize that the rationale for this was not to hamper American industry in competing for markets abroad, I believe that noise is a worldwide problem; and I hope that the Senate will delete this section.

And finally I would have hoped that the committee bill would have adopted my provision to allow the Administrator to initiate court actions for violations of the act rather than requesting the Justice Department to take action. Sadly, the record of the Department of Justice in environmental matters is less than commendable. Again, I would urge the Senate to take corrective action on this measure.

The existence of noise pollution is not new. Americans have been studying noise for nearly 100 years; Europeans even longer. But despite this consciousness of the existence of noise and its hazards, very little has been done to control it.

The legislation before us today—even with its shortcomings—opens the way for a concerted, comprehensive Federal program to combat noise and its dangers and to insure the right of all citizens to a peaceful and quiet environment.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 11021, the Noise Control Act of 1972. This legislation, championed by the very able chairmen of the Committee on Interstate and Foreign Commerce (Mr. STAGGERS) and that Committee's Subcommittee on Public Health

and Environment (Mr. ROGERS), is a long overdue first step toward the control of a particularly harmful and often overlooked form of environmental pollution—the pollution produced by noise.

The lives and livelihoods of millions of people are affected by dangerously high levels of noise. Forty-four million Americans "have the utility of their dwellings adversely affected by noise from traffic and aircraft," in the words of the committee report; 21 million people are similarly affected by the noise from construction sites. The committee estimates that at least 80 million people in all—a staggering 40 percent of the Nation's total population—are affected "to a measurable degree of impact" by noise pollution.

What does this mean? It means a higher incidence of deafness and partial hearing loss. It means loss of sleep, with resulting physiological and psychological side effects. It means damage to buildings and equipment. Most of all, it means the continuing deterioration in the quality of life, and of urban life in particular—more inconvenience, more distraction, and more physical pain.

Perhaps we should separate the two component parts of noise pollution. There is, first of all, "community noise"—the roar of a diesel truck, the shriek of a jet plane overhead, the blast from a stereo record player. Each and every one of us can think back on instances when a loud noise broke our concentration or limited our ability to function, when noise did not threaten our health so much as it annoyed or incona noise-saturated work place as a condition of employment, out of their concern for job security."

What is our responsibility as legislators and lawmakers? Noise abatement programs in the past have been farcical. In one industrial plant, for example, earplugs were randomly distributed from a large box to all workers, despite the fact earplugs may be useless if not properly fitted by a physician. The Federal Government has a haphazard assortment of noise control programs with minimal coordination between them. It is only recently, in fact, that noise has even been considered a form of pollution and given the attention it deserves.

We must impose some form of coordination on the widely dispersed Federal programs on noise control. We must make provisions for careful, well-conducted research on all phases of noise pollution. And we must find sanctions which we can use to terminate as rapidly as possible the sources of noise pollution.

The legislation we consider today, H.R. 11021, addresses itself admirably to these three responsibilities of ours. First, section 4 of the bill authorizes the Administrator of the Environmental Protection Agency to coordinate the efforts of all Federal agencies in the area of noise research and control. Second, section 14 provides for research and public information programs, for which the sum of $750,000 is allocated.

Third and most important, there are strong noise emission standards outlined in this bill, although, as I shall indicate shortly, they are not as strong as I would like them to be. Section 6 gives the EPA Chairman, that the provisions included in H.R. 11021 are long overdue. The bill is comprehensive, manageable, and well-designed. I urge its passage.

Mr. BADILLO. Mr. Chairman, as it was with many other aspects of our environmental crisis, the noise problem was allowed to reach dangerous proportions before adequate study and action were contemplated. As a result, we are today in the position of considering legislation that should have been before this House at least a decade earlier. We are still playing catchup with the environment, which means with our very survival.

If we have learned one thing about noise pollution in recent years, it is that this problem represents more than a mere nuisance. It is now recognized as a serious physical, mental, and economic hazard.

Early last year, shortly after I first took office. I cosponsored with 13 colleagues in the New York delegation, an ad hoc hearing on noise pollution in New York City. The record of that hearing led to the development of a comprehensive package of noise control legislation which I cosponsored with its author, Congressman WILLIAM F. RYAN, and a number of other colleagues.

The first bill in the package appropriated money to fully fund the Office of Noise Abatement and Control established within the Environmental Protection Agency by the Congress in 1970. The need for this bill was established by the failure of the Nixon administration to request any funds at all for this office in fiscal 1972.

venienced us. According to the Department of Health, Education, and Welfare, the so-called "annoyance trend" of noise pollution is rapidly increasing, from 23 percent of the population who complained about the noise of city living in 1948, to 50 percent in 1961, to almost 100 percent today.

There is also "industrial noise"—the often overpowering noise conditions under which many of the Nation's plant and factory workers operate. Leonard Woodcock drew this memorable picture of working in a forge-drop plant:

> It is impossible to describe to anyone who has not seen such an operation the stress of noise and heat inflicted on the men whose bodies shake and sweat and bounce with the floor as the hammers descend into the hot metal.

Noise pollution, then, has two effects: It "annoys" people off-the-job, and poses a serious health and life threat to those on-the-job in certain industries. The problem is compounded by two curious properties of noise which make it unique among pollutants. First, its effects tend to be delayed. Only after prolonged exposure to high levels of noise are the physiological effects of exposure first manifested, and in some cases it takes years, even decades before the effects are felt. Second, man has shown a remarkable tendency to adapt to high levels of noise, to shrug off intolerable noise pollution as the necessary cost of performing certain types of labor. We are left with Leonard Woodcock's chilling conclusion that many men "accept the hazard of hearing impairment and stress of

Administrator broad power to set and enforce noise emission standards. Section 8 requires the Administrator to issue regulations for the labeling of any product which emits a potentially damaging amount of noise. Other sections provide for citizens' suits, compliance regulations, and strict enforcement provisions.

/ I am extremely reluctant, however, to endorse section 7 of the bill, providing for privileged status for the Federal Aviation Administration. Under the terms of this section, the FAA must consult with the EPA and the Secretary of Transportation, then draw up standards for aircraft noise and sonic booms which are incorporated in the regulations under this bill. In the original version of this legislation the EPA had veto power over the FAA-drafted standards, but in this bill it has been stripped of that power.

In view of the FAA's history of being dominated by the very industry it is supposed to regulate, I consider this change highly unfortunate. According to an article in the Washington Star on October 12, 1971, the FAA has already decided to let representatives of the air transport industry write their own regulations. Again I say, this is most unfortunate. I would prefer to see the EPA retain its veto power, and I fail to see why the airline industry merits special consideration in the drafting of anti-noise regulations.

Nevertheless, my reservations on this section do not override my enthusiasm for the bill as a whole. I emphasize, Mr.

The second bill broadened the functions of the Office of Noise Abatement and Control to take its functions out of the area of mere research and into the area of regulation and enforcement. The bill directs the head of that office to prescribe standards on all noise-generating machinery that may endanger the public health and welfare, and it also established a system of grants and contracts to enable local governments to combat noise with Federal assistance.

The third bill—the Noise Disclosure Act—requires that all new mechanical and electrical equipment transported or sold in interstate commerce must have affixed a plate or label disclosing its operational noise level. The bill also gives the Administrator of the EPA a directive to prescribed regulations establishing standard procedures for measuring noise levels on such equipment.

In contrast to these bills is the administration's noise control proposal, introduced in the Senate last year as S. 1016. This bill, in my judgment, is by no means adequate to really tackle the noise problem and unfortunately, the bill reported by the Committee on Interstate and Foreign Commerce continues these inadequacies.

Among the major defects are these:

First. The bill fails to provide assistance to States and localities in their efforts to control, abate, and prevent noise.

Second. The bill preempts State and local authority to prescribe noise emission standards for new products for which Federal standards apply. Thus, if

a city such as New York, or a State such as California, should wish to set standards stronger than those set by the Federal Government, it could not do so.

Third. The bill fails to give the EPA authority to set and enforce noise limits on jet aircraft, continuing the Federal Aviation Administration's purview in this area. History has demonstrated the folly of this. The FAA continues to be dominated by the airline industry which has consistently opposed any retrofit requirement for the existing jet fleet. As a result, the din of jet noise over city and suburb has become unbearable. Although Congress gave the FAA authority to set jet noise limits on current aircraft nearly 4 years ago, the FAA has done nothing but stall. Clearly, it is time that the enforcement role in this area should be given to the EPA, with the FAA retaining only an advisory role.

I understand that amendments to cure these serious defects will be offered to the committee bill. It is essential that they pass, and they will have my full and enthusiastic support. The noise problem cannot be attacked by tokenism and rhetoric.

Mr. DONOHUE. Mr. Chairman, I urge support of H.R. 11021, the Noise Control Act of 1972, which is designed to control noise emissions detrimental to the human environment.

Over the past generations as this country grew and prospered and gave to its citizens the best standard of living known to man, we unwittingly took from our natural environment and never gave back to her. In our continuing struggle to repair the damage we have done, we tective requirements that are authorized will be strictly enforced and effectively applied in the public interest.

The very fervent desire of all of our people, in this tumultuous time, Mr. Chairman, is to initiate "a generation of peace." This afternoon, I most earnestly hope this House will overwhelmingly act to wholesomely expand the expression of our common objective so that it will read, "a generation of peace and quiet."

Mr. BROOMFIELD. Mr. Chairman, only 10 years ago it would have been inconceivable to suggest that the level of noise in our environment might pose a threat to our health and safety.

Regretfully, what would have been termed folly then, is now all too sobering reality. The growing volume and intensity of noise generated in the home, office, and our cities constitutes just another menacing phenomenon of our modern age.

No less than water or air pollution, noise pollution is a problem which we cannot delay in meeting head-on now and one which we must solve soon. The solution to this problem would be much easier if its cause were limited to but a few major sources. However, this is not the case; this pollution emanates from an almost infinite variety of sources.

Since noise pollution is such a comprehensive and all pervasive threat to our people and because it is a threat to the very quality of our lives, we must attack it on a national scale. This measure does just that and, if for no other reason than that it represents a first step toward that goal, it is worthy of our approval.

40 million are risking serious and permanent hearing impediments.

Mr. Chairman, pollution of any kind, whether it be of noise, water or air, is distinguished by the fact that no individual by his own efforts can escape it. This enemy will fall only to a national attack; a concerted and united plan by this Government to control the level of noise in our society before it truly does become deafening. I, therefore, respectfully urge the passage of the Noise Control Act.

Mr. ANDERSON of Illinois. Mr. Chairman, I will be brief since there have been those who have been critical of the level of noise emission in this very Chamber and have urged standards toward dampening it.

We have all become more aware of what technology now does for us and to us. There was a time when the term technology had a simple positive ring. Recent years have made us recognize the unforseen effects from the technicfication of our society. Among the clear costs of new technologies is a new and often unpleasant clangor in our lives. On the grander scale there is the cracking of sonic booms, the hysterical wail in mill and factory, the sharp crepitation of bad exhaust, the furious shriek of subway cars, the raucous thump of the pneumatic hammer in the streets.

But noise pollution touches us all on much more mundane levels, causing an irritation or frustration that cancels a bit of quality out of our days. Who of us has not winced at the whine of power mowers at early morn, at the motor boat wracking a placid lake, at the motorized

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have taken great legislative strides. We have sought and projected ways to clean up our air and water, dispose of solid wastes and make our earth good again. Now we have the opportunity to address ourselves to another problem that our technological achievements have created—noise. Let us legislatively act, before we do irreparable harm, to protect the human ear and nervous system.

As we have heard so often a journey of a thousand miles begins with one small step. I believe that this bill is a worthy first step toward protecting our citizens from an unhealthy quantity of decibels. H.R. 11021, as our initiative action, requires the Environmental Protection Agency to develop and publish noise criteria, identifying the effects of the various quantities and qualities of noise on the health and welfare of Americans. Additionally, EPA must identify products which are major sources of noise and provide information on techniques to control their noise emissions. Within 18 months of enactment, EPA must establish technologically and economically feasible noise emission standards for construction equipment, transportation equipment, motors or engines and electrical or electronic equipment. Aircraft noise and sonic boom standards will be prescribed by the Federal Aviation Administration in consultation with the Secretary of Transportation and EPA. The bill further provides for product labeling and other effective means designed to insure that the pro-

Mr. Chairman, the scientific facts which motivated this legislation are worthy of review because they illustrate just how real, how devastating the consequences of excessive noise actually are.

We now know that prolonged and unusually high levels of noise cause emotional stress which can have long-term implications for many people. As for physical effects, extreme noise can result in partial or complete loss of hearing.

A study made at the University of Tennessee has proven that an alarming number of incoming freshmen already have reduced hearing faculties. These young people between the age of 18 and 21 had the hearing ability of people twice their age. Just how this defect will accelerate as they grow older no one can accurately predict.

It is true that the high rate of hearing defects among young people is due in part to the fact that they often subject themselves for long periods of time to excessively loud music. However, the effect it has had upon them should serve as a graphic example of the potentially disastrous consequences of prolonged noise pollution.

Mr. Chairman, by giving the Administrator of the Environmental Protection Agency the authority to prescribe acceptable noise limits we can roll back the tide of noise which threatens to inundate us all. Today, there are more than 80 million Americans, 40 percent of the population, who are affected by noise pollution. Furthermore, of that number, golf cart ruining a putt? And for those of us with kids the right age, there is the stereo's blast from upstairs of the latest work of the Led Zeppelin or Santana. Trivial examples perhaps, but did not this Nation establish a Constitution in part to insure domestic tranquillity?

The authority proffered the Environmental Protection Agency as consultant, standard setter and researcher of noise emissions under this bill is sensible. The funding levels are modest. The ability of States and localities to control and regulate the use or operation of products is left unimpaired.

This is one time, gentlemen, when I can say with emphasis, we have a sound bill.

Mr. RHODES. Mr. Chairman, for the information of the Members of the House of Representatives I would like to insert at this time the House Republican Policy Committee statement on H.R. 11021, the Noise Control Act of 1972.

The House Republican Policy Committee supports the passage of H.R. 11021, the Noise Control Act of 1972.

In February of 1971, President Nixon forwarded to the Congress recommendations to "provide a method for measurably reducing major noise sources, while preserving to State and local governments the authority to deal with their particular noise problems." In furtherance of the President's program, H.R. 11021, has been reported by the House Committee on Interstate and Foreign Commerce. The proposed legislation would expand and coordinate Federal efforts to control the emission of noise detrimental to the health and welfare of the American people.

The Environmental Protection Agency is given the primary responsibility for implementing the legislation. Its functions would include:

First. The development and dissemination of information on noise and its effects on health and welfare;

Second. The identification and determination of standards for major sources of noise, such as construction equipment, transportation equipment, and equipment powered by internal combustion engines;

Third. The establishment of labeling requirement for designated products or classes of products; and

Fourth. The coordination of Federal efforts relating to noise research and control.

Recognizing that centralized administration and enforcement of local noise limits would be unmanageable, local units of Government retain the power to determine and enforce noise abatement and control levels. Federal action is limited to identification of noise sources and promulgation of feasible noise standards for specific products.

H.R. 11021, the Noise Control Act of 1972, provides for that degree of noise abatement and control which is appropriate and adequate at this time. It represents a comprehensive and effective approach to the growing problem of noise detrimental to the human environment. The House Republican Policy Committee urges its passage.

Mr. SPRINGER. Mr. Chairman, noise is far more than a mere annoyance—it is a major health problem. This fact was recognized by Congress some years ago when the Walsh-Healey Act was passed which applied to noise levels in industrial establishments. Now it is well documented that noise can be detrimental to health in other settings and other contexts.

The sources of noise have been increasmaker on the market does not mean that States and local governments are powerless to control the use to which that product may be put. On the contrary, it is expected that local units of Government, having the overall problem of noise with which to contend, will make rules for the use of various equipment. For example, gasoline power mowers could be banned or regulated as to times of use. Outboard motors can be restricted in times and places of use. Trucks can be banned from certain areas. This is the real heart of noise control. It is not expected that all products can be made noiseless and do the job for which they are intended. Perhaps they can be made less noisy. But the bigger problem is the accumulation of noise sources in any given area. That can only be controlled locally and it is so recognized by this bill.

In addition to noisy products there are and will be many which can influence noise control. Most obvious, of course, is insulation material. Things like this can be most helpful if the consumer is informed as to the exact results to be expected from the product. This is a matter of labeling and is provided for in the bill in much the same flexible way as standards for machinery. The more obvious products can be designated fairly rapidly, but many others may come and go which should be considered and included.

Noise control techniques will be explored by the Federal Government and the information obtained will be widely disseminated for the benefit of communities and individuals.

this instance Congress has a chance to lock a barn before the horse is miles away. I recommend the Noise Control Act to my colleagues for their approval.

Mr. TIERNAN. Mr. Chairman, as a member of the Interstate and Foreign Commerce Committee and as a sponsor of a Noise Control Act myself, I rise to express my support for H.R. 11021. While this bill is not as strong as I would like it to be, it is an important first step in the control of noise pollution.

For the first time we will have Federal coordination of noise control and research activities through the Environmental Protection Agency. Noise emission standards will be established for new products, and labels will be required for products which emit noise capable of adversely affecting the public health or welfare. H.R. 11021 also authorizes citizen suits against violators of noise control requirements established by this bill. Finally, the Administrator of EPA is authorized to provide technical assistance to States and local governments in training enforcement personnel and in preparing model State or local noise control legislation.

There are weaknesses in the bill which do concern me. One is the failure to give EPA more authority over the aircraft standards established by the Federal Aviation Administration. Second, if a State or local government wanted to establish noise emission standards for new products which would be stricter than the Federal standards, they would be prohibited from doing so. Third, the bill fails ot provide a grant program to assist State and local governments to

ing rapidly from the use of new devices such as power mowers and snowmobiles and also from the greater use of devices already in the noise business such as automobiles. The exact parameters of this broader noise problem are rather difficult to define and therefore difficult to influence and control. Simple pronouncements of desired noise levels for varying environments would be most difficult to establish and more difficult to enforce.

The bill before us today does not try to simply legislate quiet. It cannot be done that way. The bill does try, however, to set up some fairly flexible approaches to help identify and then solve the noise problems as they emerge.

Having already created an organization directly concerned with the environment, it seems sensible to have that agency, the Environmental Protection Agency, charged with the responsibility for determining first the necessity for noise standards in the manufacture of various mechanical devices and then the setting of those standards. Initially the effort will apply to things which commonsense already indicates are noisy such as construction equipment, transportation equipment, engines, and electrical equipment. Once standards are set through the administrative procedures applicable, manufacturers of those products may rely upon them and by certifying compliance market those products freely.

Being able to put a potential noise-

One rather sticky problem considered by the committee in regard to noise control had to do with aircraft noise. At present the responsibility rests with the Federal Aviation Administration. Basically it should remain there but the Environmental Protection Agency should have an input and a chance to make pertinent suggestions on any proposed standards for aircraft. This bill provides for that relationship between the agencies

Since the Federal Government is a big user of noisy equipment it should lead the way in eliminating unnecessary noise from such sources. Under this bill the Environmental Protection Agency will recommend products which are suitable but quieter for governmental purchase. It also provides for procurement of such products if they are not inordinately expensive.

To carry out the activities anticipated under this bill we have provided authorizations for the next 3 years in the amounts of $3 million, $6 million, and $12 million respectively.

Here we have a piece of legislation which recognizes a major problem but does not promise Utopia. There is much which we need to learn about noise and noise control before we can take any significant steps toward overall abatement. By setting up this machinery of Government now it will be possible to stay ahead of the game and head off the really big problems as they appear. In control and prevent noise.

I also believe that the Congress must act this year to lower the decibel level for occupational noise from 90 decibels, as is presently stated in the Walsh-Healey Act, to 85 decibels. A 90-decibel sound level is nearly half again as loud as an 85-decibel sound level. In addition, 85 decibels is the level at which hearing damage begins for an 8-hour exposure. Federal law should thus not be above this acceptable level.

As I stated earlier, the bill we consider today is an excellent beginning. Noise is a negative fringe benefit of the manmade environment of our industrial and high density urban society. To the extent to which this environment is becoming increasingly manmade, noise is not likely to go away, but only to become more pervasive. The way to keep noise at levels consonant with civilized life is thus through the regulation of technology.

Some scientists believe that if city noise continues to rise as it has been—approximately one decibel per year—there is a good chance that almost everyone will be stone deaf by the year 2000. A study by the University of Tennessee Noise Study Laboratory reports:

> Fearful speculation that the current population of young persons will encounter much more serious hearing problems in their middle years than the present group of 50 to 60 year olds.

This is why prompt action by this Congress is necessary and why Chair-

man ROGERS is to be congratulated for expediting consideration of H.R. 11021. I urge my colleagues to give this bill their support.

Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 11021, the Noise Control Act of 1972. This legislation, championed by the very able chairmen of the Committee on Interstate and Foreign Commerce (Mr. STAGGERS) and that committee's Subcommittee on Public Health and Environment (Mr. ROGERS), is a long overdue first step toward the control of a particularly harmful and often overlooked form of environmental pollution—the pollution produced by noise.

The lives and livelihoods of millions of people are affected by dangerously high levels of noise. Forty-four million Americans "have the utility of their dwellings adversely affected by noise from traffic and aircraft," in the words of the committee report; 21 million people are similarly affected by the noise from construction sites. The committee estimates that at least 80 million people in all—a staggering 40 percent of the Nation's total population—are affected to a measurable degree of impact by noise pollution.

What does this mean? It means a higher incidence of deafness and partial hearing loss. It means loss of sleep, with resulting physiological and psychological side effects. It means damage to buildings and equipment. Most of all, it means the continuing deterioration in the quality of life, and of urban life in particular—more inconvenience, more distraction, and more physical pain.

Perhaps we should separate the two posure to high levels of noise are the physiological effects of exposure first manifested, and in some cases it takes years, even decades before the effects are felt. Second, man has shown a remarkable tendency to adapt to high levels of noise, to shrug off intolerable noise pollution as the necessity cost of performing certain types of labor. We are left with Leonard Woodcock's chilling conclusion that many men "accept the hazard of hearing impairment and stress of a noise-saturated work place as a condition of employment, out of their concern for job security."

What is our responsibility as legislators and lawmakers? Noise abatement programs in the past have been farcical. In one industrial plant, for example, earplugs were randomly distributed from a large box to all workers, despite the fact that earplugs may be useless if not properly fitted by a physician. The Federal Government has a haphazard assortment of noise control programs with minimal coordination between them. It is only recently, in fact, that noise has even been considered a form of pollution and given the attention it deserves.

We must impose some form of coordination on the widely dispersed Federal programs on noise control. We must make provisions for careful, well-conducted research on all phases of noise pollution. And we must find sanctions which we can use to terminate as rapidly as possible the sources of noise pollution.

The legislation we consider today, H.R. 11021, addresses itself admirably to these three responsibilities of ours. First, section 4 of the bill authorizes the highly unfortunate. According to an article in the Washington Star on October 12, 1971, the FAA has already decided to let representatives of the air transport industry write their own regulations. Again I say, this is most unfortunate. I would prefer to see the EPA retain its veto power, and I fail to see why the airline industry merits special consideration in the drafting of antinoise regulations.

Nevertheless, my reservations on this section do not override my enthusiasm for the bill as a whole. I emphasize, Mr. Chairman, that the provisions included in H.R. 11021 are long overdue. The bill is comprehensive, manageable, and well-designed. I urge its passage.

Mr. FRASER. Mr. Chairman, this is excellent legislation which I am happy to support, but it needs some modification to meet the incessant roar and rumble of jet aircraft.

The Federal Aviation Administration—FAA—has failed in the task assigned it by Congress 3 years ago—to quiet the noise of jet aircraft operating in and out of our Nation's airports. A major share of this responsibility should now be turned over to the Environmental Protection Agency, which has been created since we first asked the FAA to act. The facts are that the FAA has apparently felt its responsibility to promote aviation and license aircraft and insure safe flight has priority over its responsibility to the public in the approaches to airports. I support the Wydler amendments to bring the EPA into the aircraft noise picture.

In addition, amendments by the gentle-

component parts of noise pollution. There is, first of all, community noise—the roar of a diesel truck, the shriek of a jet plane overhead, the blast from a stereo recordplayer. Each and every one of us can think back on instances when a loud noise broke our concentration or limited our ability to function, when noise did not threaten our health so much as it annoyed or inconvenienced us. According to the Department of Health, Education, and Welfare, the so-called annoyance trend of noise pollution is rapidly increasing, from 23 percent of the population who complained about the noise of city living in 1948, to 50 percent in 1961, to almost 100 percent today.

There is also "industrial noise"—the often overpowering noise conditions under which many of the nation's plant and factory workers operate. Leonard Woodcock drew this memorable picture of working in a drop-forge plant:

> It is impossible to describe to anyone who has not seen such an operation the stress of noise and heat inflicted on the men whose bodies shake and sweat and bounce with the floor as the hammers descend into the hot metal.

Noise pollution, then, has two effects: It annoys people off the job, and poses a serious health and life threat to those on the job in certain industries. The problem is compounded by two curious properties of noise which make it unique among pollutants. First, its effects tend to be delayed. Only after prolonged exposure to noise does the damage to hearing become apparent. Second, noise pollution is unique in that it is not cumulative. Noise does not remain in the environment after the source has been removed.

Mr. Chairman, I am pleased to support this legislation. It is a good bill, and I commend the committee for its work. It establishes the Office of Noise Abatement and Control in the Environmental Protection Agency. This office will be headed by an Assistant Administrator of the Environmental Protection Agency to coordinate the efforts of all Federal agencies in the area of noise research and control. Second, section 14 provides for research and public information programs, for which the sum of $750,000 is allocated.

Third and most important, there are strong noise emission standards outlined in this bill, although, as I shall indicate shortly, they are not as strong as I would like them to be. Section 6 gives the EPA Administrator broad power to set and enforce noise emission standards. Section 8 requires the Administrator to issue regulations for the labeling of any product which emits a potentially damaging amount of noise. Other sections provide for citizens' suits, compliance regulations, and strict enforcement provisions.

I am extremely reluctant, however, to endorse section 7 of the bill, providing for privileged status for the Federal Aviation Administration. Under the terms of this section, the FAA must consult with the EPA and the Secretary of Transportation, then draw up standards for aircraft noise and sonic booms which are incorporated in the regulations under this bill. In the original version of this legislation the EPA had veto power over the FAA-drafted standards, but in this bill it has been stripped of that power.

In view of the FAA's history of being dominated by the very industry it is supposed to regulate, I consider this change unfortunate. I am hopeful that the Administrator of the EPA will not hesitate to use the power he has been given to set strong standards for aircraft noise.

Mr. Chairman, I am pleased that the gentleman from New York (Mr. ROSENTHAL) deserve support. Tht first would set up a commission to study the question of curfews on nonmilitary aircraft during normal sleeping hours. Many large airports in other countries have turned to this idea. Heathrow Airport, London, England, will have a complete ban on takeoffs between 11:30 p.m. and 6 a.m. Frankfurt, Germany, is considering a ban on night takeoffs of jets. Jets are prohibited from Tokyo and Osaka airports between 11 p.m. and 6 a.m. with the exception of mailplanes. Let us adopt the amendment to give this proposal active study. It may be the only way to let people have a decent night's sleep.

The second amndment would prohibit civilian planes from making sonic booms in U.S. airspace. This action is needed now before the arrival of supersonic transports from the Soviet Union or Western Europe. The Noise Control Act of 1972 must prevent sonic booms.

Mr. STAGGERS. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act, including the following table of contents, may be cited as the "Noise Control Act of 1972".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Federal programs.
Sec. 5. Identification of major noise sources; noise criteria and control technology.
Sec. 6. Noise emission standards for products distributed in commerce.
Sec. 7. Aircraft noise standards.
Sec. 8. Labeling.
Sec. 9. Imports.
Sec. 10. Prohibited acts.
Sec. 11. Enforcement.
Sec. 12. Citizen suits.
Sec. 13. Records, reports, and information.
Sec. 14. Research, technical assistance, and public information.
Sec. 15. Development of low-noise-emission products.
Sec. 16. Authorization of appropriations.

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise

ed or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 6 or section 8 which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products.

(7) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

FEDERAL PROGRAMS

SEC. 4. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 2(b).

(b)(1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he

IDENTIFICATION OF MAJOR NOISE SOURCES; NOISE CRITERIA AND CONTROL TECHNOLOGY

SEC. 5. (a) The Administrator shall, after consultation with appropriate Federal agencies, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and etxent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(b) The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act.

(c) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

(d) Any report (or revision thereof) under subsection (b)(1) identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or information on control techniques shall be announced in the Federal Register, and copies shall be made available to the general public.

NOISE EMISSION STANDARDS FOR PRODUCTS DISTRIBUTED IN COMMERCE

SEC. 6. (a)(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c), for each product—

(A) which is identified (or is part of a class identified) in any report published under section 5(b)(2) as a major source of noise,

control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual corporation, partnership, or association, and (except as provided in sections 11(d) and 12(a)) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act of 1958; or

(B) (i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported after the effective date of standards applicable to such product.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of new products.

(7) The term "distribute in commerce" means sell in commerce, or introduce or deliver for introduction in commerce, or hold after introduction in commerce.

(8) The term "sell in commerce" means sell in, or introduce or deliver for introduction into, commerce, or hold after introduction into commerce, for sale.

(9) The term "commerce" means trade, traffic, commerce, or transportation between a place in a State and any place outside thereof, and includes trade, traffic, commerce, or transportation within the District of Columbia or within any territory or possession of the United States.

(10) The term "import" means import into the customs territory of the United States.

(11) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories and possessions of the United States.

(12) The term "noise" means sound the intensity and frequency of which is capable of causing detrimental effects on the health or welfare of individuals.

(13) The term "noise emission standard" means a standard, or regulation promulgated pursuant to section 6, which establishes a limitation on noise emissions from a product.

(14) The term "noise emission" means noise caused by a product.

(15) The term "noise reduction" means any decrease in the intensity of noise emissions, however accomplished.

(16) The term "noise reduction characteristics" means the measurement of noise emissions and the description of noise reduction achieved or achievable.

(17) The term "noise reduction component" means any device, design feature, or material incorporated in or on a product which is installed for the purpose of noise reduction.

(18) The term "Federal agency" means any department, agency, or instrumentality of the United States.

RESEARCH, INVESTIGATION, TRAINING, AND OTHER FUNCTIONS

SEC. 4. (a) The Administrator shall conduct research, investigations, studies, demonstrations, and training, and other activities, necessary to carry out the policy declared in section 2, including but not limited to—

(1) identification and measurement of noise emissions and noise reduction characteristics of products;

(2) development of improved methods for measuring noise emissions and noise reduction characteristics of products;

(3) development of low-noise-emission products;

(4) development of noise reduction components for products;

(5) development of improved methods for the manufacture of products so as to control noise emissions;

(6) development of improved methods for the installation of products so as to control noise emissions;

(7) development of improved methods for the operation of products so as to control noise emissions;

(8) development of improved methods for the maintenance of products so as to control noise emissions;

(9) development of methods for the prevention of the impairment of noise reduction characteristics of products;

(10) development of methods for the restoration of noise reduction characteristics of products;

(11) development of methods for the prevention of the impairment of noise reduction components for products;

(12) development of methods for the restoration of noise reduction components for products;

(13) development of methods for the prevention of the impairment of the noise reduction characteristics of products by other products;

(14) development of methods for the restoration of the noise reduction characteristics of products impaired by other products;

(15) development of methods for the prevention of the impairment of noise reduction components for products by other products;

(16) development of methods for the restoration of noise reduction components for products impaired by other products;

(17) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the environment;

(18) development of methods for the restoration of the noise reduction characteristics of products impaired by the environment;

(19) development of methods for the prevention of the impairment of noise reduction components for products by the environment;

(20) development of methods for the restoration of noise reduction components for products impaired by the environment;

(21) development of methods for the prevention of the impairment of the noise reduction characteristics of products by other noise emissions;

(22) development of methods for the restoration of the noise reduction characteristics of products impaired by other noise emissions;

(23) development of methods for the prevention of the impairment of noise reduction components for products by other noise emissions;

(24) development of methods for the restoration of noise reduction components for products impaired by other noise emissions;

(25) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products;

(26) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products;

(27) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products;

(28) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products;

(29) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

(30) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

(31) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions;

(32) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(33) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(34) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

(35) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with the environment;

(36) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with the environment;

(37) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(38) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(39) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(40) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(41) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

(42) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

(43) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions;

(44) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(45) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(46) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

(47) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with the environment;

(48) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with the environment;

(49) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(50) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(51) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(52) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(53) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

(54) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

(55) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions;

(56) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(57) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(58) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

(59) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with the environment;

(60) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with the environment;

(61) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(62) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(63) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions and the environment;

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(66) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

(67) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions;

(68) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(69) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(70) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

(71) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with the environment;

(72) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with the environment;

(73) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(74) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(75) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(76) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(77) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

(78) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

(79) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions;

(80) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(81) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(82) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

(83) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with the environment;

(84) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with the environment;

(85) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(86) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(87) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(88) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(89) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

(90) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

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(92) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(93) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(94) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

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(104) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(105) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(106) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

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(122) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(123) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions and the environment;

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(125) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

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(137) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

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(149) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

(150) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

(151) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions;

(152) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(153) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(154) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

(155) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with the environment;

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(157) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(158) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

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(161) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

(162) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

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(164) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(165) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(166) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

(167) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with the environment;

(168) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with the environment;

(169) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(170) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(171) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(172) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(173) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with other noise emissions;

(174) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

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(176) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(177) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(178) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with the environment;

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(186) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions;

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(242) development of methods for the restoration of the noise reduction characteristics of products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

(243) development of methods for the prevention of the impairment of noise reduction components for products by the noise emissions of such products acting in combination with other noise emissions and the environment;

(244) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions and the environment;

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(296) development of methods for the restoration of noise reduction components for products impaired by the noise emissions of such products acting in combination with other noise emissions;

(297) development of methods for the prevention of the impairment of the noise reduction characteristics of products by the noise emissions of such products acting in combination with the environment;

(298) development of methods for the restoration of

enactment of this Act, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 5(b)(1) identifying it (or a class of products of which it is a part) as a major source of noise.

(b) The Administrator may publish proposed regulations, meeting the requirements of subsection (c), for any product for which he is not required by subsection (a) to prescribe regulations but for which, in his judgment, noise emission standards are feasible and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c), for such product.

(c)(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 5, is requisite to protect the public health and welfare. In establishing such a standard for any product, the Administrator shall give appropriate consideration to technological feasibility and economic costs, and to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966 and the Clean Car Act. Any such noise emission standard shall be a performance standard. In addition, any regulation under subsection (a) or (b) (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manu-

"CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 611. (a) For purposes of this section:

"(1) The term 'FAA' means Administrator of the Federal Aviation Administration.

"(2) The term 'EPA' means the Administrator of the Environmental Protection Agency.

"(b)(1) In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that aviation safety requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

"(2) The FAA shall not issue an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d).

"(c)(1) If at any time EPA has reason to to be filed under such section 102(2)(C), the report of the FAA indicates that the revision (if any) proposed by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the existing (or proposed) standard or regulation of the FAA (or exemption therefrom) and (B) EPA's proposed revision.

"(3) If, in the case of an action of the FAA described in paragraph (1)(B) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA states that issuance of an original type certificate should not be preceded by issuance of a noise standard and regulation, the FAA shall, upon request of EPA, file a statement (of the type described in such section 102(2)(C)) with respect to the issuance of such certificate. The requirements of such section 102(2)(C) relating to consultation, obtaining comments, and the availability of statements made pursuant to such section shall apply to any statement filed under the preceding sentence.

"(d) In prescribing and amending standards and regulations under this section, the FAA shall—

"(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

"(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

"(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air

facturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to participate in rulemaking in accordance with the first sentence of section 553(c) of title 5, United States Code.

(3) The Administrator may revise any regulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d)(1) Subject to paragraph (2), no State or political subdivision thereof may adopt or enforce—

(A) with respect to any new product for which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to control, regulate, or restrict the use, operation, or movement of any product.

AIRCRAFT NOISE STANDARDS

SEC. 7. (a) Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) is amended to read as follows:

believe that—

"(A) a standard or regulation (or any proposed standard or regulation) under this section, or any exemption, granted under any provision of this Act, with respect to such a standard or regulation, or

"(B) the action of the FAA in issuing an original type certificate for an aircraft for which standards and regulations described in subsection (b)(2) have not been prescribed, does not protect the public from aircraft noise or sonic boom consistent with the considerations listed in subsection (d) of this section, EPA shall consult with the FAA, and may request the FAA to review, and report to EPA on, the advisability of such action or of revising such standard, regulation, or exemption, as the case may be. Any such request may be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action or standard or regulation (or exemption therefrom); and shall specify whether (and where) such statement is available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

"(2) If, in the case of a matter described in paragraph (1)(A) of this subsection with respect to which no statement is required

transportation in the public interest;

"(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

"(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

"(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control or abatement of aircraft noise or sonic boom and the public interest do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation."

(b) All—

(1) standards, rules, and regulations prescribed under section 611 of the Federal Aviation Act of 1958, and

(2) exemptions granted under any provision of the Federal Aviation Act of 1958, with respect to such standards, rules, and regulations.

which are in effect on the date of the enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator of the Federal Aviation Administration in the exercise of any authority vested in him, by a court of competent jurisdiction, or by operation of law.

LABELING

SEC. 8. (a) The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

(b) For each product (or class thereof) designated under subsection (a) the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Section 6(c)(2) shall apply to the prescribing of any regulation under this section.

(c) This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

IMPORTS

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

PROHIBITED ACTS

SEC. 10. (a) Except as otherwise provided in subsection (b), the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 6 which is applicable to such product, except in conformity with such regulation.

(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design installed in accordance with regulations prescribed under section 6 or 611 of this Act, or the Federal Aviation Act of 1958, respectively, and applicable to such product, except by any person acting in accordance with regulations prescribed under section 6 or 611 of this Act, or the Federal Aviation Act of 1958, respectively.

(B) The use of any product after such device or element of design has been removed or rendered inoperative by any person, other than for purposes of maintenance, repair, or replacement, except by any person acting in accordance with regulations prescribed under section 6 or 611 of this Act, or the Federal Aviation Act of 1958, respectively.

(C) The manufacture for sale, sale, or lease of any product after such device or element of design has been removed or rendered inoperative by any person, other than for purposes of maintenance, repair, or replacement, except by any person acting in accordance with regulations prescribed under section 6 or 611 of this Act, or the Federal Aviation Act of 1958, respectively.

(3) To fail or refuse to comply with any regulation prescribed under section 6 or 611 of this Act, or the Federal Aviation Act of 1958, respectively.

(4) To fail or refuse to comply with any order issued by the Administrator under section 9(c) or 16(a).

(5) To use any false or misleading statement in connection with the certification of a product under section 9(b), or to fail to report any information relevant to such certification.

(6) To fail or refuse to permit access to or copying of records, or to fail or refuse to make reports or provide information, required under this Act.

(7) To fail or refuse to permit entry or inspection as required by section 11(c).

(b) Upon application therefor any person may obtain from the Administrator an exemption from any provision of subsection (a) (1), (2), or (3) for a period not exceeding one year and subject to such terms and conditions as may be consistent with the purposes of this Act. The Administrator may grant such exemption if he finds that the manufacturer is unable to manufacture a product which complies with the regulations prescribed under section 6 or 611 of this Act, or the Federal Aviation Act of 1958, respectively, or that the exemption is necessary for the testing of a product which complies with such regulations, and that the granting of the exemption is in accordance with the purposes of this Act. Any exemption may be revoked at any time upon the Administrator's own initiative, or upon application by any person when the Administrator finds that the circumstances which led to the granting of the exemption have changed so that the product no longer qualifies for the exemption.

(c) Nothing in this section shall apply to any product if it is in fact distributed in commerce for use in any State.

ENFORCEMENT

SEC. 11. (a)(1)(A) Except as provided in subparagraph (B), any person who violates section 10(a) of this Act shall be subject to a civil penalty of not more than $25,000 for each violation. Such penalty may be assessed by the Administrator and collected in a civil action brought by the United States in a United States district court, or assessed by a State which is a party to an agreement under subsection (c) and collected in a civil action brought by such State in a court of such State as provided in such subsection.

(B) A person who does any act in violation of paragraph (1), (2), or (3) of section 10(a), and who establishes that he did not have reason to know in the exercise of due care that such act was in violation of such paragraph, shall not be subject to a civil penalty under subparagraph (A).

(2) In any proceeding by the Administrator (or a State) to assess a civil penalty under this subsection, no penalty shall be assessed until the person charged shall have been given notice and an oppotrunity to present his views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Administrator (or such State) shall consider the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification by the Administrator (or such State) of a violation.

(3) In case of any civil penalty assessed against any person by the Administrator under this subsection, if the Administrator's determination that such person is liable for such penalty is made on the record after notice and opportunity for hearing, then in any civil action to collect such penalty (and any other civil action reviewing such determination) such person shall be entitled to a trial de novo.

(b)(1) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 10(a)(1), (2), or (3), he may issue an order requiring such person to comply with such section or he may bring a civil action in accordance with subsection (c).

(2) Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, and shall be issued after notice and opportunity for a hearing.

(3) In any hearing under this subsection, the Administrator and alleged violator may be represented by counsel, may present all relevant arguments and proofs, and may cross-examine witnesses. A transcript shall be made of the hearing and shall be available at a reasonable cost to any interested person.

(4) Any person who fails to comply with an order issued under this subsection after the expiration of the time for compliance specified in the order shall be subject to a civil penalty of not more than $25,000 for each violation.

(c)(1) The Administrator may commence a civil action in accordance with this subsection whenever any person (to whom a regulation prescribed under section 6 or 611 of this Act, or the Federal Aviation Act of 1958, respectively, applies) is in violation of any noise control requirement (as defined in subsection (e)), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise control requirement under such section 611) and (ii) to any alleged violator of such requirement, or

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or (2) under subsection (a)(2) prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 6, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 8(b) (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 8(b), prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 9 which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 13(a) or regulations prescribed thereunder.

(b)(1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such prodmination of the Administrator) any findings of fact on which such determination is based shall be conclusive if supported by substantial evidence on the record considered as a whole.

(4) For the purpose of this subsection, each day of violation of any paragraph of section 10(a) shall constitute a separate violation of that paragraph.

(b) The United States may bring a civil action in the district courts of the United States to restrain any violations of section 10(a) of this Act.

(c) When authorized by State law—

(1) the Administrator may, by agreement with any State, with or without reimbursement, authorize law enforcement officers or other officers or employees of such State to (a)(1)(A), and to bring civil actions in the appropriate State courts to collect such civil penalties or to restrain any person from violating section 10(a); and

(2) the courts of such State may entertain any such civil action.

In any action under this subsection to collect a civil penalty, the penalty shall be payable one-half to the State and one-half to the United States Treasury. Nothing in this subsection shall affect the authority of a State to commence a civil action under section 12.

(d) The term "person", as used in this section, does not include a department, agency, or instrumentality of the United States.

CITIZEN SUITS

SEC. 12. (a) Except as provided in subsection (b), any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment

(c) In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may intervene as a matter of right. In an action under this section respecting a noise control requirement under section 611 of the Federal Aviation Act of 1958, the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(e) For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 10(a), or a standard, rule, or regulation issued under section 611 of the Federal Aviation Act of 1958.

RECORDS, REPORTS, AND INFORMATION

SEC. 13. (a) Each manufacturer of a product to which regulations under section 6 or section 8 apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act,

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b)(1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this Act.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

RESEARCH, TECHNICAL ASSISTANCE, AND PUBLIC INFORMATION

SEC. 14. In furtherance of his responsibilities under this Act and to complement, as necessary, the noise-research programs of other Federal agencies, the Administrator is authorized to:

(1) Conduct research, and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

(A) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(C) determination of the most effective and practicable means of controlling noise emission.

(2) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1972, and $2,000,000 for each of the two succeeding fiscal years.

(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. There are authorized to be appro-

standards, including but not limited to—

(A) advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

(B) preparation of model State or local legislation for noise control.

(3) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

SEC. 15. (a) For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 6 at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b) (1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5) (A) of this subsection;

ing actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

(c) (1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible

priated to carry out this Act (other than section 15) $3,000,000 for the fiscal year ending June 30, 1972; $6,000,000 for the fiscal year ending June 30, 1973; and $12,000,000 for the fiscal year ending June 30, 1974.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. WYDLER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Forty-three Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 54]

Abourezk	Clay	Hébert
Anderson, Calif.	Denholm	Hillis
	Dennis	Kemp
Anderson, Tenn.	Donohue	Kyl
	Dorn	Landgrebe
Andrews	Dwyer	Leggett
Ashbrook	Edwards, La.	McCloskey
Baring	Evins, Tenn.	McKinney
Belcher	Fisher	Macdonald, Mass.
Bell	Foley	
Blatnik	Frelinghuysen	Mayne
Bow	Galifianakis	Mazzoli
Caffery	Grasso	Melcher
Carey, N.Y.	Hanna	Mollohan
Clark	Hansen, Wash.	Montgomery
Clausen, Don H.		Murphy, Ill.
	Hastings	O'Neill

Patman	Rosenthal	Stubblefield
Podell	Rostenkowski	Tiernan
Pryor, Ark.	Roybal	Vanik
Pucinski	Scheuer	Wilson,
Railsback	Sisk	Charles H.
Randall	Smith, Calif.	Wolff
Rees	Springer	Wright

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill H.R. 11021, and finding itself without a quorum, he had directed the roll to be called, when 365 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the absence of a quorum was noted, the committee amendment in the nature of a substitute had been read and opened to amendment at any point.

AMENDMENT OFFERED BY MR. WYDLER

Mr. WYDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYDLER: Page 42, strike out line 11 and all that follows down through line 20 on page 45, and insert in lieu thereof the following:

"(b) (1) In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, EPA (after consultation with the Secretary of Transportation, the FAA, and the Administrator of the National Aeronautics and Space Administration) shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as

(Mr. WYDLER asked and was given permission to revise and extend his remarks.)

Mr. WYDLER. Mr. Chairman, the bill that is being considered today is one to generally meet the problems of noise in our society, and I thoroughly agree with the committee, and with the bill that is before us today, that this is one of the problems of modern society with which we in the Congress must deal. Certainly the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS) has pointed out the horrors of noise in our society, the damage it does to the people in our society, and the damage it does to the hearing of our children.

No part of this noise problem, Mr. Chairman, is worse than the problem of jet noise. It is the most fearsome noise that we have in our society today, and the fact is that under the present law it is an essentially uncontrolled noise in our society.

Now what would the committee bill do? The committee bill would continue the present situation that exists in our country. That present situation is in effect that the FAA is given the power to set limits on jet noise.

Now I think the FAA has the expertise in this field. I would not deny that for a moment. They are skilled in the questions of designing and building and certifying aircraft and they should be a part of this process.

But I submit to this committee today that continuing in the FAA the power to act in this field by all the evidence that we have in the past 3½ years and by the evidence we have before us today is a people to act. They are letting down the Congress and they are letting down the public. All we are doing is saying, "We still trust you—we still expect you to do something—we still hope for the best."

I am offering you an alternative which is better—not to throw the FAA out of this picture, but to keep them in the picture—but to put the EPA in control. Let us give them control over the setting of these standards so they can start action.

What is the matter with the committee proposal? The committee proposal says the EPA will consult with the FAA, but they can never consult with the FAA until the FAA takes some action. There is nothing to consult about. That is the situation we have right now.

So I ask that we take some action to give the EPA the power and the authority to get this ball rolling. The FAA will continue to play a significant and important part in the rulemaking procedure—we are not taking them out of that.

You are going to hear the issue of safety raised. Just let me make these points.

Under the Clean Air Act passed by this Congress, we gave to the EPA—to the EPA and not to the FAA the power.

The CHAIRMAN. The time of the gentleman from New York has expired.

(Mr. WYDLER asked and was given permission to proceed for 2 additional minutes.)

Mr. WYDLER. Under the Clean Air Act, we gave to the EPA—not to the FAA—the power of controlling emission standards of jet engines—and that means, the smoke that is emitted from

EPA may find necessary to provide for the control and abatement of aircraft noise and sonic boom.

"(2) Any standard or regulation prescribed under paragraph (1) (and any revision thereof) shall take effect after such period as EPA finds necessary (after consultation with the FAA and the Administrator of the National Aeronautics and Space Administration) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(c) (1) The FAA, after consultation with EPA, shall prescribe regulations to insure compliance with all standards and regulations prescribed under subsection (b) of this section by EPA. The regulations of the FAA shall include provisions making the standards and regulations of EPA applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this Act. The FAA shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in the FAA by any other provision of law in the execution of all powers and duties vested in the FAA under this paragraph.

"(2) No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act by the FAA, except with the approval of EPA.

"(d) EPA and the FAA, in prescribing and amending standards and regulations under any authority respectively vested in them under this section, shall—

Page 46, line 2, strike out "he" and insert in lieu thereof "EPA or the FAA, as the case may be,".

Page 47, beginning on line 9, strike out "by the Administrator" and all that follows down through line 12, and insert in lieu thereof "in accordance with law."

waste of time because they have proven that they will do nothing about it and they have told us, in effect, that they will do nothing about it in the future.

First of all, let me say this. Under the general terms of this bill, the Environmental Protection Agency is given all the power to control problems of noise in our country—all except in one field and one field alone—that is the field of jet noise. There it is given to the FAA—not to the Department of Transportation but to the FAA and the FAA alone. They are given the total, complete and sole power to act.

What should we, as Members of the Congress, think about their performance to date? Three and one-half years ago we passed legislation giving to the FAA the power to act in this field. For 3½ years they have not used this power to require the reduction of noise from currently flying aircraft. Those are the planes that are driving people crazy around the airports all over this country.

For 3½ years they have done nothing. When I asked them only a week ago, before a committee of the Congress, the Committee on Science and Astronautics, when they would start—when they would start making their rulemaking procedures, they told me they would not start their rulemaking procedure, which is just the first step in taking act, for at least for another year.

Now I have received promises that they were going to start these procedures time after time and year after year for 3 years after the Congress told these

the back of those engines. That also requires some expertise in the way the aircraft are constructed and the material and the equipment that is going to be retrofitted.

We gave such power to the EPA and told them to consult with the FAA in carrying on that function.

That is exactly what I am proposing we do here. We also gave power to the EPA—and not to the FAA—to come up with standards of jet fuel, the actual fuel that the jet aircraft would burn. That power was given to the EPA—of course, they have to use it in consultation with the FAA.

And that is what I am proposing to do in this field of noise control as well. I think the EPA should consult with the FAA. My amendment would so provide.

I think they should also consult with the other agencies—such as NASA, that is doing most of the work in this jet noise reduction field, and I think they will. EPA can give the people something, something they have not had to this date—and that is some action in this area.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from West Virginia is recognized.

Mr. STAGGERS. Mr. Chairman, I should like to remind the Committee again that this is a new start in noise control. I understand that about five, six, or seven amendments have been submitted to the bill. We are trying to bring before you a simple bill that will apply to

new products. It is addressed to the manufacturers of these products. If some of the amendments are adopted, we shall certainly divert ourselves from the original purpose to make a simple start. The fact is that the gentleman's amendment should be offered to the next airport and airway safety bill, which will be before us before too long. It belongs there.

I might add, too, that there has been a start made in that direction. We have empowered the FAA to do so, and they have put in the Federal Register a notice, "Civil Airport, Sonic Boom—Notice of Proposed Rulemaking." They are going to work on this problem. They have put that in the Federal Register so everyone can see it. They will provide an opportunity for everyone who is interested to come in and make their presentation.

Recently we passed an aviation safety bill. It carried with it $5 billion over 5 years to see to it that the airways are safe for people to travel in. Do you mean to tell me that you are going to tell such an agency that has been in the business all of these years what is safe and what is not safe? I do not think I would stand for it. I do not think any Members of the House would stand for it. They have said they are working on the problem.

The 747 is a much quieter plane than the older planes. Would you have them take all of the older planes out of the sky today? No; you would not. They are making the new airplanes quieter. They are acting with the expertise they have. These are tremendously large planes, carrying hundreds of additional passengers, and yet they are quieter than the older planes.

that statement to a group in New York?

Mr. STAGGERS. What was the statement?

Mr. WYDLER. As reported in Aviation Daily, February 16 of this year, Chairman Shaffer of the FAA said he thought that with the record of the 747's and the DC–8's, this was a waste of money. He is the man who has sole control.

Mr. STAGGERS. Let me say to the gentleman that the newer planes, particularly the 747, are much quieter than the older jet planes we have on the market. They are making progress. There is no doubt about it. That is their direction. They are under special direction from the Congress to do it. I have read to the gentleman the docket which has been published in the Federal Register: "Civil Airport: Sonic Boom, Notice of Proposed Rulemaking." That gives everyone an opportunity to come in and be heard.

I do not believe that this is the place or the time. I believe the amendment ought to be offered to another bill at the appropriate time. I am opposed to the amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hope this proposed amendment will be defeated.

It seems when we find an agency not performing as we think they could or should, we then pass a new law and lay another layer on top of an existing layer. I would like to refer to a debate we had some time ago dealing with cancer legislation, where an attempt was made to move out of NIH into a separate agency, change their attitude and their way of doing things, and then do something. I think the time to act is now.

Mr. NELSEN. Mr. Chairman, I would point out when we deal with an engine, maybe in an automobile or an airplane, there are certain things we can do. If we are going to have the horsepower, the engine is going to make some noise. Maybe the things to do is to look to the future and work with the manufacturer, and this has been done. Things will be better. To change some things in existence, they tell me, would cost far more than the good it would do.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I oppose this amendment very strongly. We went into this matter in great detail. EPA does not have the competency to go into this. FAA does. There must be a safety factor geared into it.

I must say to the gentleman that FAA has set standards. They are reducing the effective perceived noise decibels from 120 down to 108 and below in the 747's and the DC–10's.

Futhermore, if the gentleman would turn this authority over to EPA, I might tell him what has just happened with respect to air pollution.

Prior to the implementation of the Clean Air Act, the Department of Transportation and the aircraft industry reached an agreement whereby the industry agreed to reduce heavy smoke emissions from aircraft by the end of 1972. In many instances, this requires

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There is not a plane in the United States that causes a sonic boom except for military aircraft. We can tell them that they can go out over the seas and do their experimenting. You would not have the FAA say what the military may do. If we do not have—and we do not have—a plane that breaks the sonic boom in our civil aircraft today, then I believe we ought to wait until we get to an aircraft and airport bill and get that subject in the place where it belongs. Then if we want to say something about the military, we can tell the military at that time.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. WYDLER. First, I thank the gentleman for his suggestion, and I most certainly will take advantage of it if it is appropriate at that time. But I think it is very appropriate in a noise abatement bill to consider the subject of noise, particularly when the chairman of the committee has offered a provision which is almost word for word with my provision, except that I am giving the power to move, to do something about environmental protection to the Environmental Protection Agency instead of to the FAA.

Is the chairman aware of the statement made by the Administrator of the FAA only within the last week to the effect that he considers that aircraft engine noise will cease to be an issue? Is the chairman aware that he made but we felt we should not fragment what we had already done. We admitted we had not done enough. So then we put in some new guidelines and added some new pressure to accelerate and expand the operation.

In this case in our committee we went into this and we felt the layers of research which had been done by the FAA were far greater than and far better than anything the EPA, a new agency, really had done. The EPA is set up as a sort of policeman to direct and to work in this entire field. We proceeded with the idea of putting EPA into a position where they will have a chance to influence what is done, but at the same time we require them to rely ultimately on the FAA. If they are not doing enough, maybe we should call them before our committee to find out why they have not done enough.

Mr. Chairman, I do hope the amendment will be defeated.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I agree with what the gentleman is saying to this extent. I would say it would be logical if we were starting a new agency today and starting to grant new power to the agency, to consider very seriously giving such power to the FFA. But the problem is that FAA has had this power for 3½ years and they have not been using it. I would say instead of waiting to see if they would suddenly get religion and retrofitting of the aircraft; thus, through FAA efforts we can expect jet engines to be "smokeless" by the end of this year. Moreover, prior to the enactment of the Clean Air Act, the FAA issued an advance notice of proposed rulemaking respecting other types of air pollutants emitted from aircraft. However, section 231 of the Clean Air Amendments of 1970 transferred the authority to prescribe regulations with respect to emissions of air pollutants from aircraft to EPA. This made the FAA advance notice of proposed rulemaking moot. Section 231 required that within 270 days of enactment of the Clean Air Amendments—December 31, 1970, EPA must issue proposed emission standards applicable to aircraft. The regulations thus were due on September 27, 1971. They have not been published to date. Now the amendment asks the EPA noise office—with only 25 personnel—to take on additional responsibilities.

Mr. Chairman, I would urge defeat of this amendment. I think it would be very unsound.

Mr. NELSEN. Mr. Chairman, I thank the gentleman.

May I point out to the gentleman from New York (Mr. WYDLER), that I think in the debate here the gentleman's discussion is going to be helpful, because it does serve as a warning to EPA that they have not done enough. I think this will trigger a little more pressure. Maybe our committee should also look into it. I thank the gentleman for his contribution.

[p. H1529]

Mr. GUDE. Mr. Chairman, I rise in strong support of this amendment and I commend our colleague from New York (Mr. WYDLER) for his excellent efforts to curb the current jet noise level.

The FAA has failed time after time to move in regard to this jet noise problem. Here in the Washington, D.C., area anyone who lives along the Potomac River Valley will be able to tell you of the many problems caused by the ceaseless jets that soar over their homes and parks. Officers at the National Airport Complaint Center average about 70 calls per month complaining about the jet noise level. One of these officers—and these are the people on the side of the FAA—has said the great majority of the people who call are "very reasonable folks with legitimate gripes."

I believe it is high time we turned over to EPA the authority to move in this field. If we leave this authority where it is presently it is like leaving cabbage in with the goats.

In many instances, my own constituents are seriously effected by the noise level and do not hesitate to say so. One concerned constituent, Dr. Erich Buchmann, a leader in local efforts to curb jet noise, writes that present noise levels are "a farce and a mockery of environmental concepts."

Another constituent, concerned with the noise levels at the summertime Watergate concerts calls the jet noise "a violent invasion of public property. The setting of these fine concerts is unique. The immortal beauty of the musical programs is drowned out violently. It is an insult to the people of this great city."

sure of what EPA would do—but, whatever the reason, that problem is being solved. We did give that power to EPA. We might take a lesson from it.

Mr. ROGERS. And EPA can have that same effect here. They can have them review it immediately.

Mr. SATTERFIELD. Mr. Chairman, I move to strike the last word.

I will not take 5 minutes, but I would like to propound a question to the gentleman from Maryland (Mr. GUDE).

The gentleman made the statement that nothing has been done by FAA in the Washington, D.C., area. Is it not a fact that the FAA has imposed a curfew on jet aircraft?

Mr. GUDE. They imposed a curfew, and then they have moved into a period where they are violating their own curfew.

Mr. SATTERFIELD. Is it not a fact that the FAA has also imposed operating standards for aircraft entering and leaving this area for the express purpose of reducing noise?

Mr. GUDE. They have set these standards, but the jet noise continues up along the river, and they continue to operate jet airplanes into National Airport at the same rate they have in the past.

Mr. SATTERFIELD. I would like to add this, Mr. Chairman: The one thing which I believe is being overlooked here is that it is not just jet engines that produce noise in aircraft. The configuration of the aircraft, the design of the aircraft, and the manner in which it is operated contribute significantly to its noise.

I do not believe it is reasonable to expect that we can have a low decibel rating. I think in just a matter of time this problem will take care of itself. Immediate grounding for retrofitting would ground 50 percent of the present fleet.

I thank the distinguished gentleman for yielding.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from Illinois.

Mr. COLLIER. The gentleman from Virginia directed a question to the gentleman from Maryland with regard to the curfew, and I did not quite get the gentleman's answer. The fact of the matter is that the curfew has not been violated. I would like to have him cite one instance where the curfew, which requires all planes to land in this area before 11 o'clock at night has been violated. I do not believe it has been violated in one instance where planes have been allowed to land after 11 o'clock at night or before a certain time in the morning. The regulation has not been violated.

Second, I remind the gentleman that just a year before he came to this body the Administrator of the FAA made an effort to do something about the Washington noise problem, and that was to have all flights coming into Washington from a distance of over 500 miles away land at Dulles airport. It was the Members of Congress, and let us not kid ourselves on that score, who opposed this and stopped it. We could have gotten some relief then. We did not get the relief because certain Members of this body preferred to land at Washington

Mr. Chairman, for some time the jets have silenced the Congress. It is high time for the Congress to act to silence the jets. The Federal Aviation Administration has had the authority to impose jet noise restrictions for some 3½ years. Their lack of substantive action to date would indicate to me that, at best, a certain ennui has settled over the FAA. I would only wish that some of the rather obnoxious jet noise would settle there as well.

The Environmental Protection Agency was established specifically to handle environmental pollution problems. EPA, therefore, has a legitimate interest in noise control and should rightfully be granted the authority called for by this amendment. It has my strong support.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from New York.

Mr. WYDLER. I just wanted to say, relative to the comment of the gentleman from Florida regarding setting air emission standards for jet engines, truthfully I do not know exactly what the procedural situation is in regard to that. Let me tell the gentleman of the testimony which was given before the Committee on Science and Astronautics, on which I serve. We had industry spokesmen tell us they are retrofitting aircraft to clean up the air. They are in the process of doing that. They assure us they have it in hand and are moving fast.

Whatever the reason may be—they may be afraid of EPA, or may be not pect FAA to come up with a basic standard for operating procedures to reduce noise, because each of these procedures must conform to the specific geographic requirements at various airports. The FAA is taking action in this direction, and this ought to be taken into consideration now.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I am glad to yield to my colleague on the committee (Mr. CARTER).

Mr. CARTER. I thank the distinguished gentleman from Virginia for yielding. I know he has a particular expertise in this field, for he was a pilot in World War II and has continued since that time.

Is it true that retrofitting the aircraft would cost approximately $1.5 million or more, perhaps $2 million?

Mr. SATTERFIELD. That is my understanding. We are talking about commerical jet aircraft.

Mr. CARTER. And actually it would cost approximately $1.5 billion to retrofit all these planes which are now in use; is that correct?

Mr. SATTERFIELD. That is the understanding I have.

Mr. CARTER. These planes will be phased out gradually, and by 1978 we will have no more that are not retrofitted or have acceptable sound standards. Is that not correct?

Mr. SATTERFIELD. That is my recollection of the testimony we received.

Mr. CARTER. All of them will conform at that time to the present requirements National Airport because they did not want to be inconvenienced. So, if we are to blame anyone, do not blame the FAA but, rather, the Members of this body.

Mr. SATTERFIELD. Mr. Chairman, I want to conclude my remarks by saying that I believe we are oversimplifying this issue. One thing which concerns me is that Congress might place in the hands of an administrative agency the power to require through standards that which exceeds our technological capability to provide. I think we should leave these decisions in the hands of the FAA which possesses the necessary expertise, if for no other reason than to guarantee the maximum safety for the traveling public.

Mr. ADDABBO. Mr. Chairman, I rise in support of the amendment offered by my colleague from New York (Mr. WYDLER).

I have been here for 12 years now and I have heard the same argument over and over again. I represent the area of Kennedy Airport. The committee had said 12 years ago that they cannot touch an airport noise because it is outside the Federal Government's jurisdiction. They said it is local. For about 7 or 8 years we have had this question raised, without any action taken on it. We were still being adversely affected by aircraft noise, and then we found that we were able to get through Congress a bill giving the FAA the authority to set noise levels, but all they have done in 3 years is set them on new airplanes. The people living near the Kennedy airport do not have the privilege—they do not have the privilege—of getting a curfew. They have 24 hours a day of continuous noise. An airplane is

taking off or landing every 30 seconds of the day, and we are asked that the authority over this matter continue to be given to the FAA to set the noise levels. They have done nothing and they have not implemented the authority that we have given them.

Just recently, very recently, one of the officers of the FAA had the audacity—the audacity, mind you—to say that the airline association would work on that problem. The FAA has been all along and for too long airline oriented. We need a new agency which should be people oriented so that the people of my district do not have to have a drive into Kennedy Airport to try to focus attention on the problem that they live with day in and day out.

Under this bill, if the EPA has the authority, then my people would be able to bring an action, if no relief is given, to get the relief to which they are entitled and to which every person living in and around an airport would be entitled.

The people's health should not be secondary to the economics of the airlines.

I ask for the passage of this amendment so that the people may finally look forward to a good night's sleep in the near future.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Maryland.

Mr. GUDE. The question was raised earlier about violations of the curfew. The violations have been so bad that finally in September of 1971 citizens of Virginia brought suit to ban all jet traffic after 11 p.m. The post-11 p.m. traffic volved. And all of these factors go into the FAA regulations as to what type of approach you have, as to what type of approach you use on a particular field and at what place in the United States.

Mr. Chairman, the key factor that must be dealt with and with which we must be involved is the factor as to whether or not that plane has enough power to approach safely into a particular field.

The new planes are being changed, but to retrofit all of the old ones, as has been mentioned, will run into several billions of dollars which the airlines do not have. So we simply would move out of the airline traffic in the United States at the present time all of the planes that came in prior to the passage of the statute which this Congress enacted and which has been enforced by the FAA.

Mr. Chairman, to say that they are not moving at all is to ignore the fact that every airport in the United States has a noise factor.

There is also present in many jurisdictions of the United States, including the jurisdiction of several Members who have spoken on this amendment complains by local people with regard to the noise patterns of that area. The committee very carefully drafted this bill to say that that situation would be dealt with, and the committee was also very careful to see that FAA answers were being looked at. That is one reason why EPA is mentioned in this bill.

You simply cannot have the EPA, based upon the number of airports in the United States, going to each of those airports and say, "We are going to have plished by the adoption of my amendment is the fact that we will have EPA involved with FAA so that FAA will start doing something about putting out regulations to reduce jet noise.

It is all right to try to do it with procedures and special rules and this kind of thing, but to get to the source of the noise, the engine, requires some action on the part of the FAA. They refuse to take the necessary action to reduce the noise in the currently flying planes. They are the ones that are driving the people crazy.

Mr. ADAMS. Also, you have the situation of presently flying airplanes which involves about 50 percent or 60 percent of your fleet and you determine, or EPA determines that all of those airplanes do not meet a specific engine standard, how can they meet that engine standard if they are landing at so many feet above sea level, but above that they cannot because they are going to have to apply more power?

Are you going to go to the airlines and to the traveling public, and say you have got one of two choices, either 50 percent of the planes are going to be grounded, or you are going to take a chance when you go in as to the amount of power you will use?

That is why we are saying that the EPA should look at what the FAA does, but not to come in and try and set those standards with the number of aircraft of varying design and the number of airports we have throughout the Nation.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. FRENZEL. Mr. Chairman, I move

had been going on since April of 1970. The suit which is still pending in court asks that the FAA act immediately to halt the post-11 p.m. jet operations at National and file reports on the environmental impact of the stretch jets. FAA's record of reducing airport noise in the vicinity of National is a miserable one. In the last 12 months there has been a 6 percent increase of operations at National with a half-million more passengers while Friendship operations are down 10 percent with a loss of 200,000 passengers and Dulles operations are down 2 percent handling 20,000 less passengers.

It is high time that we direct FAA to divert this noisy, bothersome traffic to Dulles and Friendship—in particular the Nation's taxpayers are entitled to have better utilization of Dulles in that they footed the bill for its construction.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ADAMS asked and was given permission to revise and extend his remarks.)

Mr. ADAMS. Mr. Chairman, I rise in opposition to the amendment.

I think that the emphasis—and I want to echo the remarks of my colleague, the gentleman from Virginia (Mr. SATTERFIELD)—on the intricacies of trying to regulate airport noise involves the fact that you are going to have to regulate glide slope, you are going to have to regulate the approach, you are going to have to regulate the area, the altitude of the airport, the type of plane in a certain type of engine that can land at Huntington, W. Va., and National Airport and the same kind of approach pattern and have any type of safety factor involved."

Mr. Chairman, the way to handle local noise problems is to handle it in two fashions. One is to let the local jurisdiction determine what the pattern will be and what they will allow in their areas and the second—and this applies directly to the FAA equally—to determine whether or not the noise to the approach pattern is faulty. That type of challenge is being made and met and is one of the reasons why you have at National Airport a very stringent set of standards that are not applicable at Dulles.

Mr. Chairman, those who sit on the committee are very much aware of this. I think the Subcommittee on Public Health has done an excellent job of trying to say, "All right; let us have another agency watch the FAA," but please do not oversimplify what you can do with an airplane in taking off and landing in terms of the safety of the traveling public.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. WYDLER. Well, to repeat, there is no attempt in this amendment to take FAA out of the picture. They will still be in the picture because they are still going to certify the aircraft and issue the regulations.

The thing which would be accomplished by this amendment is to require the FAA to take into consideration the noise factor in the certification of aircraft. Now, I am not going to take the time of the House to strike the requisite number of words.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, in most of our major cities land use of areas surrounding airports is testimony to the fact that the jet age caught us by surprise. With few exceptions, our major airports are close to, or surrounded by, residential areas.

Prior to the development of modern aircraft, the allotted area for airport space seemed sufficient and noise was not a severe problem. With our modern jets, noise has become a significant environmental problem. The problem is not likely to be solved until Congress properly delegates to the appropriate Federal agencies the responsibility for establishing and enforcing effective, yet realistic, noise controls.

The FAA has been charged with this responsibility, but its willingness to impose meaningful noise control regulations is less than enthusiastic. In my judgment, this authority, or at least some of it, properly belongs to the Environmental Protection Agency. EPA now sets noise emission standards for noise from sources other than aircraft. It has a strong track record as an advocate of environmental causes, and it does not have the same conflict of safety versus sound that is inherent in FAA authority.

As a representative serving an area which includes an international airport, I view the FAA versus EPA question as more than an intramural contest for jur-

isdictional authority. FAA is charged with establishing safety standards, and while these standards are not necessarily in conflict with noise control measures, the FAA will, and should, always concentrate on its safety responsibility. Yet the aircraft noise problem continues to be a source of great irritation in addition to being an environmental hazard. I believe we can stand up for less noise without sacrificing vital safety considerations. We can give the EPA its appropriate role in noise reduction without vitiating the FAA safety controls.

I ask the support of my fellow Members for the Noise Control Act of 1972 and for the Wydler amendment.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, in answer to the question propounded by the gentleman from Washington (Mr. ADAMS), I would say this—that under either proposal, the committee proposal or my proposal, the final regulations that would be established would be a cooperative venture. In the committee bill between the Environmental Protection Agency and the FAA, in my bill between the Environmental Protection Agency, the FAA and NASA, who actually is doing most of the work in the noise reduction field, but either way it would be a cooperative effort, and the regulations would take into account all of the technical problems we are raising. And the expertise would be available that we are talking about. There would be no change in that. But EPA would be able to start

Mr. ADAMS. Mr. Chairman, in response to the gentleman's statement, I would say that I am very familiar with the engines that the gentleman has mentioned, and know the noise suppression devices that would be placed into them, but the factors we are talking about, the major factors will require, as the gentleman from Kentucky (Mr. CARTER) pointed out a little earlier, a retrofitting of the entire power packs of those planes. And when you retrofit that entire power pack it means to take that plane and, in effect, rebuild the entire engines, and the craft itself. So the entire industry goes off the line.

As I stated before in my question to you, the FAA is trying to handle it, and with the new aircraft that they are trying to handle it by noise standards, and whatever they can to reduce that noise problem. But I do not think the EPA can, if the gentleman wants to put them in, be prepared to say, "All right, we will put 50 percent of the line out of business, or take the chance on the safety of the flying public."

Mr. WYDLER. If the gentleman will yield further, I am not saying that at all. These proposals, and they are submitted as proposals, can be retrofitted into the present aircraft. It does not mean you have to put planes out of service or out of fleet operation at all, except for the period of time it takes them to be retrofitted. But smoke reduction equipment is a requirement on the airlines today. Just as on the question of erybody was upset about that, and we required that the airlines do that, to use the smoke emission reduction equipment. have to be reasonable. So what we have done is to assure the input of the EPA, but we assure the public safety by leaving the final decision to the FAA. That is what ought to be done. This amendment ought to be defeated.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the distinguished chairman.

Mr. STAGGERS. Mr. Chairman, I would just like to say in conclusion, on the question of safety, we debated this issue in this Congress not too long ago and we put $5 billion in back of it.

I say to the Members of this Congress, by letting this amendment go into this bill, there may be thousands of people killed.

Mr. Chairman, this amendment ought to be defeated at this time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WYDLER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MIKVA: Page 42, lines 13, 16 and 18, strike out "and sonic boom" wherever it appears in such lines.

Page 47, insert immediately after line 12 the following new subsection:

"(c) It shall be unlawful to operate a civil aircraft within the navigable airspace of the United States at speeds which would produce a sonic boom, thereby creating a measurable or audible overpressure on the surface. For the purpose of this subsection, the term 'navigable airspace' shall have the same meaning given such term by Sec. 101 (24)

the rulemaking procedures that FAA neglects. I also want to tell the gentleman, because he does not seem to be aware of, that we can reduce the noise in the current engines that are flying now.

I have in my hand a chart from the National Aeronautics and Space Administration which was submitted to our committee just in the last week during the hearings we are conducting on jet noise in the J3B, the J8B engines, which are the engines in the 707's, the DC–8's and the 727's. That is where the real noise is. These charts show that we can achieve a reduction of more than 50 percent of the noise in those planes of all types, takeoff noise, approach noise, sideline noise. This can be done. We have the technology to do it. What we need is somebody to say, "Let us do it." And apparently after 3½ years of waiting for the FAA to start to do something, I believe the Nation should have some action in this field. If FAA does not intend to do anything about it, then I say that some action should be taken on behalf of the public, not of the airline industry. That is the real safety we are talking about. We are talking about the financial safety of the airlines, and their economic problems, and that is important, but it is also important to give the people who live around these airports a little relief, the relief that we in the Congress of the United States promised them 3½ years ago, and that has not been done to date.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Washington.

They did that and the airlines survived. I did not say that we want the airline industry to come to a complete halt. We do not want to do that.

It will not do that. But I think what we have to decide here—and this is an environmental issue—is—are we going to protect the people from this horrible problem of noise or are we not? Or are we going to consider only the interests of the industry involved?

Mr. Chairman, I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

I will not take the full time allowed except to say the committee has gone into this subject very thoroughly. It is a very significant action. We did this by requiring the EPA to be consulted by the FAA right at the beginning so they will have the input into what the standards will be. That must be done right at the beginning. Then, if the EPA is not satisfied with a standard, they can require a review of that by the FAA just by asking them. They must respond under the law.

Furthermore, if that is not satisfactory, they can require them to point out in the environmental impact statement how it would affect the EPA proposed standard versus the FAA. They have to tell the various effects.

So we have the pressure on them.

Now the EPA still must come to the FAA on safety. We all know that. We

of the Federal Avialon Act of 1958 (49 USC 1301 (24))."

(Mr. MIKVA asked and was given permission to revise and extend his remarks.)

Mr. MIKVA. Mr. Chairman, on behalf of myself and my distinguished colleague from New York (Mr. ROSENTHAL) I intend to offer two important amendments to the Noise Control Act. Both amendments are intended to make life a little less painful for people living near major jetports. My new district includes most of the homes surrounding the Nation's busiest and loudest airport, O'Hare Field in Chicago. Congressman ROSENTHAL'S district includes the area around the Nation's fourth busiest airport, La Guardia Airport in Queens.

Our first amendment proposes to prohibit sonic booms over U.S. land by commercial jets. The second would set up a commission to study the idea of imposing a curfew on noisy jet flights into and out of airports in populous areas during normal sleeping hours of the night.

Mr. Chairman, as I said in my statement during the debate, the Noise Control Act is basically a sound bill, and I expect to vote for it. But it needs to be strengthened in several important respects.

This bill's treatment of the sonic boom problem is most depressing. It constitutes a license to operate the supersonic transports in this country.

The FAA already has the authority to set sonic boom standards; that authority is not affected by this bill which merely

provides that the Federal Aviation Administrator must "consult" first with the Secretary of Transportation and the EPA Administrator. This is hollow tokenism.

I urge this section be deleted and in its place the House enact a total ban on sonic booms by civil aircraft in U.S. airspace.

We all know what a sonic boom is and what it does. We also agree that it is bad and that we do not want it. The real question is how decisively we are willing to assert ourselves.

H.R. 11021 leaves unacceptable loopholes for squeezing through an ear-shattering supersonic flight.

The FAA, under a proposed rule written when that agency was still vigorously trying to sell the American people and the Congress an SST we did not want, can permit supersonic flights by civil aircraft over any part of the United States if the sonic boom does not reach the ground.* Exceptions are made for research and development flights.

These exceptions give the FAA full authority to go ahead and approve sonic boom-producing flights for such vague reasons as "assisting aircraft development" or "studying sonic boom effects." This is a significant erosion of the Government's original promise to prohibit civilian supersonic flights over the United States.

The FAA has said it opposes any legislative action prohibiting sonic booms.

The FAA has said it feels sonic boom prohibition should be done by FAA regulation rather than by act of Congress.

Why? Because regulations are more meet foreign competition on their international routes, want to put their supersonic planes to work on the lucrative domestic routes, say New York to Los Angeles?

Some conservationists say an SST on such a flight would trail a thunderous boom along a path 50 miles wide and disturb the peace of 20 million Americans. One noise expert contends it could cause heart attacks and hearing impairments for many of those 20 million.

Tests in West Germany, France, and England as well as this country show sonic booms cause structural damage to buildings.

What happens when the airlines want to use their SST's on U.S. domestic routes? Will the FAA, in the interest of promoting aviation, grant them permission under its proposed regulation in the guise of "assisting aircraft development" or "studying sonic boom effects?" Or will the regulation be changed? Will the Government and industry launch a public relations campaign to tell the American people that the boom is a nice thing to have around—"a 20th century sound," as Boeing calls it—a symbol of prosperity and progress for the Nation?

Perhaps it will be explained in terms of preserving and protecting the free enterprise system and the U.S. balance of payments. Or perhaps the ban on the boom will be lifted to meet a stirred-up public demand for domestic SST service, implying the boom must be good because some people want the flights.

This Congress has decided that the SST poses a threat to the environment, among other things. Approval of H.R. testing. The Government has paid about a half-million dollars in settlements so far on sonic boom damage claims.

Noise and health authorities have said sonic booms could cause hearing impairments and possibly worse damage for persons in SST flight paths.

Because the sonic boom is unacceptable, the Congress should not give the FAA such broad authority to regulate and possibly permit this threat to the public health and welfare. The Congress should leave no doubt about its abhorrence for the sonic boom.

There must be an absolute ban on sonic booms by civilian aircraft over the United States.

I urge my colleagues to support this amendment to "ban the boom."

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from West Virginia is recognized.

Mr. STAGGERS. I respect the gentleman from Illinois very much in what he is trying to do. I should like to say, first, that we do not have any civil aircraft that will produce a sonic boom at the present time. The gentleman mentioned the Concorde. We do not know whether it will ever be flying to this country or not, and if it does, I am sure it will not be flying across the country.

I might say to the gentleman that the amendment is not necessary because the FAA states now that final sonic boom regulations will be issued by the FAA this year. They are now in the Office of the Secretary of Transportation.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

flexible than laws. They can be changed more easily.

The United States may be out of the SST business for the time being, but the aviation industry, the current administration, and especially the FAA hope we will be back in before too long. Meanwhile, U.S. airlines may very well be buying and flying foreign-made SST's and certainly the airlines of several friendly nations will.

Concorde, the Anglo-French SST, was designed and built to fly between New York and Europe, especially London and Paris. Both sponsor governments have invested billions of dollars in the project along with their national pride and possible their political and economic futures. They do not want to see their airplane fail. You can be sure they will be willing to put great pressure on the U.S. Government, both directly and through their friends in the aviation industry, to relax threatening barriers to the Concorde.

Concorde, incidentally, is supernoisy even at subsonic speeds. It is considerably louder on the ground than any other airliner in current use—and we know how noisy those are.

The sonic boom may not be a serious threat to inhabitants of the United States for flights between London and New York where most of the distance is over water.

But what happens when the U.S. airlines, which invested heavily in SST's to

*FAA Notice of Proposed Rule Making; No. 70–16, issued April 10, 1970, and still pending as of this date.

11201, with its gaping loophole for intense noise pollution, would contradict the already expressed will of the Congress and of the American people.

We must amend this bill so that it decisively prohibits all sonic booms produced by civilian aircraft. This is too important to leave to the discretion of others.

Secretary of Transportation Volpe has said supersonic transports would—

Not be allowed to fly over populated areas unless and until the noise factor comes within *acceptable* limits. [Emphasis added.]

"Acceptable" was never defined.

Who would determine "acceptable limits?" The FAA, which makes the rules and is charged with promoting aviation?

Years of research still have not produced any method of eliminating the sonic boom or even significantly muzzling it. Secretary Volpe is confident:

If we cannot lick the sonic boom problem in 10 years, I do not know the United States of America.

Many persons are wary of the FAA's promise to protect them from the sonic boom. They fear that some day there will be boom-producing supersonic flights over populated areas even without Secretary Volpe's hoped-for breakthrough. They fear it will begin by allowing the boom "only within acceptable limits" and then subtly redefining what is "acceptable."

The sonic boom is clearly unacceptable. And it is destructive. Just ask the U.S. Air Force and the 12,000 persons who filed damage claims as a result of sonic boom

Mr. STAGGERS. I am happy to yield to the gentleman from Illinois.

Mr. MIKVA. If that is so, what is the objection to my amendment, which simply states that there will be no sonic boom over the land areas of this country? I should like to share the hope that our airlines will never try to fly such aircraft, but suppose they do? In the past the FAA has allowed them, or has issued regulations suggestive of allowing them to do so. My amendment would be a statutory prohibition against sonic booms over the land areas of this country.

Mr. STAGGERS. There are some reasons for leaving the matter where it is. Some of them relate to testing they might need, and there are other things. But I would say to you that they are adopting regulations. They already have them prepared. They are in the Secretary's office. I do not believe the provision ought to be in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. MIKVA. Page 47, insert immediately after line 12 the following new subsection:

"(c) (1) There is established the Airport Noise Curfew Commission (hereafter referred to as the 'Commission'). The Commission shall study and make recommendations to the Congress regarding the establishment of curfews on non-military aircraft opera-

tions over populated areas of the United States during normal sleeping hours. The Commission shall report its findings and recommendations to the Congress no later than six months after the date of the enactment of this Act, at which time the Commission shall cease to exist.

"(2) The Commission shall be composed of nine members, as follows: four appointed by the Speaker of the House, three appointed by the President Pro Tempore of the Senate, the Administrator of the Environmental Protection Agency and the Administrator of the Federal Aviation Administration. One each of those members appointed by the Speaker of the House and the President Pro Tempore of the Senate, respectively, shall represent the aviation industry; the remaining such members so appointed shall be private citizens not involved in the aviation industry. One of the public members shall be elected chairman. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(3) Except as provided in Paragraph (4), members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

"(4) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

"(5) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(6) Subject to such rules as may be adopted by the Commission, the Chairman

"(12) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(13) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(14) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter which the Commission is empowered to investigate by this subsection. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States."

Mr. MIKVA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I will explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. MIKVA asked and was given permission to revise and extend his remarks.)

Mr. MIKVA. Mr. Chairman, I rise to offer an amendment to H.R. 11021 to take the first step toward solving the problem of aircraft noise pollution. What I propose is a thorough study of the possibilities of establishing curfews on nonmilitary flight operations at the Nation's airports.

Mr. amendment would set up a nine-member Commission consisting of the Administrator of the Environmental Protection Agency, the Administrator of

is morally, socially, and environmentally necessary.

The community residents near O'Hare Airport like those in other cities, suffer the consequences of decades of neglect of the noise pollution problem. Most of them were there before the jets arrived.

They used to live in comfortable, convenient neighborhoods which, while noiser perhaps than rural areas, nonetheless struck a reasonable balance between city hustle and bustle and suburban quietness. But today, that balance is gone. Now those people come home from their jobs and find themselves beneath an intolerable roar as jetliner after jetliner screeches over their roofs. The night does not bring peace to them because O'Hare and the airlines do not understand or recognize the citizen's right to quiet.

Alleviation of this situation is not terribly difficult. A reasonable solution would be to begin curtailment of all nonmilitary air traffic from scheduling departures and arrivals between 10 p.m. and 7 a.m., the hours normally reserved for sleeping.

The number of passenger flights occurring during those hours is only 11 percent of the total at O'Hare. But this number does not seem small if you happen to live nearby. When added to the cargo flights at those hours, the din of the aircraft becomes almost unbearable. Aircraft noise during the normal sleeping hours has a compounding impact on residents because the noise cannot be assimilated as it is during the day with other noises. One jetliner taking off at midnight has 10 times the effective

may appoint and fix the pay of such personnel as he deems desirable. The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(7) Subject to such rules as may be adopted by the Commission, the Chairman may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"(8) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

"(9) The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

"(10) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

"(11) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

the Federal Aviation Administration, two representatives of the aviation industry, and five public members. They would report the findings of their investigation and their recommendations to the Congress within 6 months of this act.

This Commission would be a temporary investigative body, not a new governmental agency. It would exist solely for the purpose of informing the Congress and would go out of existence upon submitting its report and recommendations.

A curfew on aircraft operations is a short-term solution to the problem and is not meant to be an alternative to such long-term answers as quieter engines and improved operational procedures. Both approaches are needed; they are complementary.

Mr. Chairman, the problem of excessive noise abuse from jet traffic has dominated citizens' concerns ever since the first jets began swooping and soaring over their homes. The situation has deteriorated for residents as jet traffic has increased to a point of a constant bombardment of noise. Studies amply demonstrating the psychological and physical traumatic effects on people have been made on the debilitating effects of jet noise. The noise impact is 10 times more disturbing during the normal sleeping hours, when it is much more difficult to assimilate sounds, than during the day.

One of the few successful attempts at regulation has been the ban on late evening and predawn jet traffic at Washington National Airport. I strongly urge other airports to follow this example. It noise impact of the same plane taking off at noon. Besides, some 491 cargo flights occur during those hours at O'Hare. Added together, sleep is hard to come by the people who live near O'Hare.

Washington National Airport prohibits its scheduled jet commercial traffic between 10 p.m. and 7 a.m. The FAA, which runs National, and the airlines operating out of the airport, have a voluntary agreement on the night flight limitations. The agreement began in 1966 and has worked rather well. Only minor adjustments by the airlines were needed in rescheduling flights to conform. Similar agreements exist in Los Angeles, and Fresno, Calif., and Boise, Idaho, as well London, England, and many major European cities.

The constitutional right of domestic tranquility includes freedom from oppressive noise. Steps must be taken by airport managements, airlines, and public officials, including the Congress, to protect and respect the right and to halt the acoustic abuse heaped mercilessly upon the citizenry.

I urge my colleagues to support this amendment establishing a commission to look into the possibility of imposing a curfew on the late night flights by noisy jets.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment. I hesitate to do this because of my friendship with the gentleman, and I know his sincerity, but I do not believe this is the place, and I do not believe this

can be done on a nationwide basis. I believe it would be setting up a useless commission that could not deal with all the airports in America. It would be superfluous. I do not believe it should come in this bill. This is not the proper place for it.

Mr. Chairman, I oppose the amendment.

Mr. WYDLER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would just like to take this moment to make a point on the floor of the House, which I think is important to the future of the airline industry in our country. Recently we have had someing called the CARD Report issued as a national policy for our aviation industry. That report indicated one of the main problems facing the future of civil aviation in our country is the problem of jet noise. That report is correct.

Mr. Chairman, I warn the airline industry that they are going to come up short again if they do not take cognizance of this jet noise problem. For years they thought they could ignore it and economically benefit by ignoring the problem. The result of that has been that in the past decade they have made themselves bad neighbors, and they have not been able to find a jet port site near many urban centers in America. In the last decade nobody has wanted them around. They are hurting economically as a result.

Mr. Chairman, I am going to predict on the floor of the House that unless they act to alleviate this jet noise problem, and start retrofitting programs, they will be sorry again, because the result is going

Do I correctly understand that language means outside the United States, and deals with exports?

Mr. STAGGERS. That is correct.

Mr. GROSS. This is a part of the prohibited acts section of the bill. Am I to understand we are perfectly willing to export to foreign countries products which make such noise that we do not intend to tolerate them in this country?

Mr. STAGGERS. I might say to the gentleman, I believe he understands we had to do this in order to compete, because many countries bring in inferior products and use them. They pay less for them. If we are to compete in any way we have to have ours. They do not have standards. We cannot set standards for any other country in the world. If they are importing these from other countries, we say our people can compete.

Mr. GROSS. The point is that we are perfectly willing to export to foreign countries that which we claim is injurious to humans and which we will not tolerate in this country.

Mr. STAGGERS. That is correct, and that is what we do with all other products I know of.

Mr. GROSS. Then I seriously question how sincere we are here today about abating noise allegedly as an aid to the physical well-being of humans.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Minnesota.

Mr. NELSEN. What we have done in the bill is to require that whatever we manufacture for export must meet the standards of the country to which we

identical language we had in the air pollution bill.

Mr. GROSS. Yes, and I will say to the gentleman I am getting more mail all the time from people who are adversely affected by the provisions of that bill.

Mr. STAGGERS. They will be, I am sure, and as time goes on the gentleman will get more, because this is one of our great problems of the day, air pollution.

Mr. GROSS. I will say to the gentleman that I am not willing here again today to compound the error that was made in that bill, and the so-called safety legislation. I think that is what will happen under the provisions of section 12, entitled "Citizen Suits." I believe it is an open invitation to nuisance suits that will be brought against a lot of businessmen in this country.

Mr. Chairman, most people seek peace and quiet. I know that I do, but I also know that in this day and age it is utterly impossible to eliminate all noise especially in the areas where there are heavy movements of traffic of all kinds. I also know that the States and municipalities, through the enactment and enforcement of laws and ordinances, can make a far better contribution to the elimination of noise than they have in the past.

This bill calls for the expenditure of $26 million with which to spoon feed a new layer of bureaucrats and I am as convinced as I am that I am standing here that these payrollers will duplicate and overlap the functions of the environmentalists and others who are already spending millions upon millions of dollars.

All this is borrowed money and at a

to be a further economic loss to the airline industry. The people will retaliate, as they have a right to do, by curtailing the use of the current jet ports in our country. They will start closing the jet ports down during the night—not just National Airport in Washington, but all major jet ports in America will start to close down. People are going to get—and rightly so—a restriction on the use of the current jet airports which service our major population centers.

At that point the airline industry is going to realize that what it thought was economy by saving this money on the retrofitting of planes and making them quiet, bearable and livable, will be a severe blow to them and civil aviation in our country. I see that coming. I predict it is going to come as surely as we are meeting here today. It has already started. It will not be stopped unless the airline industry makes hard economic decisions to give the people on the ground who suffer from this problem the relief to which they are entitled.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Chairman, I rise to inquire about a couple of items in this bill. On page 50, line 10, it is stated:

> Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State.

make the export. For example, in our automobile situation we find that if they do not have the proper fuel what we put on an automobile would be wasted. There can be many other instances like that.

Mr. GROSS. On page 51, line 3, it is stated:

> A person who does any act in violation of paragraph (1), (2), or (3) of section 10(a), and who establishes that he did not have reason to know in the exercise of due care that such act was in violation of such paragraph, shall not be subject to a civil penalty under subparagraph (A).

What kind of a loophole is being provided here, and for what reason? This is obviously some kind of a loophole.

Mr. STAGGERS. If the gentleman will yield further, I would say that if a person does not know his article violates the regulations we do not think he ought to be punished if he does not know.

Mr. GROSS. I want to turn once more to page 53, and section 12, "Citizen Suits." I am sorry that more of the Members were not here earlier this afternoon to hear the colloquy between the gentleman from Louisiana (Mr. WAGGONNER) and the gentleman from Florida (Mr. ROGERS) on this section. I am still far from convinced that this provision in the bill is not a wide-open invitation to nuisance suits that will be brought against those who may be the least able financially to defend themselves.

Mr. STAGGERS. I might say to the gentleman from Iowa that this is the time when the Nation is confronted with a financial crisis. I am willing to endure some noise until I can be assured that the Government and the people of this country can be saved from moral and financial bankruptcy. I will vote against the bill.

Mr. COLLIER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members of the House, I presently and for many years have represented the district which encompasses the busiest airport in the world, O'Hare International. It has operations every 37 seconds. I think I would be remiss if I did not at this time make as a matter of record my comment with regard to the pending amendment of my good friend from Illinois.

This problem of establishing curfews and going to the FAA seeking regulations which provide for relief from the noise problem in the area is nothing new. I served on the Aviation Subcommittee 15 years ago when we were dealing with this very problem. But I think we ought to get one thing straight: We have a curfew at Washington National Airport because Washington National Airport and Dulles are in a totally unique position. They are not municipally operated but instead under control of the Federal Government. O'Hare International Airport is operated by the Chicago Municipal Airport Authority. There would be not one plane going in or out of O'Hare field after 11 o'clock at night if the local airport authority did not ap-

prove it. So it is well and good to suggest bringing the complaints to Washington and have the FAA do the job when in reality the responsibility presently exists with the local airport authority.

So let us not beat around the bush here. If we want this job done, I suggest that if you have an interest in providing this relief, you should go to the Chicago Airport Authority, which is an arm of the city administration of Chicago, get relief at the source. They have the power to stop any flights after 11 o'clock if, in fact, we want a curfew. I think that ought to be made eminently clear, and I hope have done so today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The amendment was rejected.

AMENDMENT OFFERED BY MR. RYAN

Mr. RYAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RYAN: Page 56, line 23, insert "(a)" immediately after "SEC. 14."; and insert after line 3 on page 58 the following:

"(b) The Administrator may make grants to States and other public entities to develop, establish and conduct programs of noise control, prevention, and abatement, and to establish and conduct demonstration projects to develop and evaluate new techniques, approaches, and methods in the control, prevention, and abatement of noise. The Administrator shall by regulation prescribe the form, content, and manner of submission of applications for grants under this subsection. Payment of grants under this subsection may enable local governments to conduct meaningful noise control programs. What must be added is a comprehensive system of grants which will allow State and public bodies to develop, establish and carry out noise control programs and projects.

Noise control takes money, and there is no getting around the fact that local communities are particularly hard-pressed for funds. Given the significant role that they must play in combating this most serious hazard, I believe that it is imperative that the Federal Government do whatever it can to alleviate the financial burden of States and local governments in dealing with noise pollution.

Perhaps the best illustration of the role Federal financial assistance can play in noise abatement is the example of the crucial role Federal funding has played in the development of New York City's air pollution control program.

Federal funding for State and local air pollution programs is provided under the program grant section of the Clean Air Act in four stages: (1) development grants, usually made for a 2-year period, but may be continued into a third; (2) establishment grants, made for a 3-year period, the first of which may overlap the development grant; (3) improvement grants, also made for 3 years, the first of which is again an extension of the establishment grant; and (4) maintenance grants, to be made annually once the program is fully established.

Before the availability of Federal financial assistance in 1966, the New York City department of air resources had an technical positions. In 1968, when the New York City Department of Air Resources initiated a 10-station automatic air monitoring system to complement preexisting manual stations and permit a continuous definition of the air pollution problem in New York City, it was Federal funding which made possible much of the required technical work in design and installation. Since then, it has been in large part the Federal contribution which permits the maintenance and servicing of New York City's aerometric system, including the compilation of data for the daily air quality report.

Not only would such financial assistance enable States and localities to undertake programs which otherwise may remain unimplemented, but a grant program would serve also as incentive for greater local initiative in the area of noise control.

There are those who, although they favor the concept of grants, would suggest that we wait a few years before endeavoring such an undertaking. Although I can understand their concern, noise and its dangers are growing at such an alarming rate that we simply cannot afford the luxury of a wait-and-see approach. Urban noise has doubled since 1955 and is expected to double again by 1980. And evidence presented at the June 1971 meeting of the International Standardization Organization in Geneva, Switzerland, indicated that if this trend continues, every urban dweller will be deaf by the turn of the century.

Quite clearly, the time to act is now.

The idea of grants to aid States and

be made in advance or by way of reimbursement, and in such intervals and on such conditions, as the Administrator finds necessary. There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $10,000,000 for the fiscal year ending June 30, 1974, for grants under this subsection."

(Mr. RYAN asked and was given permission to revise and extend his remarks.)

Mr. RYAN. Mr. Chairman, this amendment would establish a program of grants to States and local governments in order to develop and conduct programs of noise control and abatement and to establish and carry on demonstration projects to develop and evalulate new techniques and approaches.

Throughout the course of the hearings before the Subcommittee on Public Health and Environment, one theme continued to be stressed: that States and local governments have a significant responsibility in the control, abatement, and prevention of noise.

Recognizing this, the committee bill provides for technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including, but not limited to advice on training of noise control personnel and on the selection and operation of noise abatement equipment, and in the preparation of model State or local legislation for noise control.

Although advice and technical assistance is necessary, it is not sufficient to annual budget of less than $900,000 and a staff of 120. In fiscal year 1966, that department received a 3-year establishment grant of $500,000. This grant enabled the department to create an emission inventory unit to define the names and sources of every significant air pollutant in New York City. This project provided the basis for the advancement of New York City's activities into a management program. Thus, in 1968, when the Department of Air Resources embarked on its implementation of new air pollution control legislation, it was a Federal maintenance grant of $860,000 per year that provided the springboard for a doubling of the total air pollution control budget from $2 to $4 million and thereby an escalation of the city's efforts to combat air pollution.

During the past 3 years, the Department of Air Resources has received $2.7 million in Federal maintenance assistance. In fiscal 1969, this maintenance support represented 25 percent of its $4.1 million budget, and in 1970 28 percent of $4.4 million. In 1971, this figure increased to about 35 percent of a total budget of $5.1 million.

According to the administrator of New York City's Environmental Protection Agency, Jerome Kretchmer, Federal funds paid the salaries of 36 percent of New York's inspection and field staff, greatly increasing its ability to serve summonses to violators of New York's air pollution code.

Federal assistance has also permitted the existence of additional high level localities in combating noise pollution is not new. In the 91st Congress, I introduced legislation to establish such a program. Much of the reason that affirmative action was not taken on this legislation was that the Congress was in the process of mandating an Office of Noise Abatement and Control within the Environmental Protection Agency with the task of preparing a comprehensive study on noise. It was felt that we should wait until the report was completed before embarking on a major grant program.

That report is now complete. It was submitted to the Congress on December 31, 1971. And it underscores why such a grant program is essential. In the section entitled "Specifics of a Program for the Future," the report stated that:

Local and State governments have the primary responsibilities . . . for the actions necessary to provide a quieter environment.

In the case of noise control, the future is now. We cannot afford to allow this problem to continue unabated. And if we are to come to grips with this problem, it means that we must supply all possible assistance to those with the primary responsibility for making this a more quiet and tranquil world.

My amendment would authorize the Administrator to make grants to States and other public entities to develop, establish, and conduct programs of noise control, prevention, and abatement, and to establish and conduct demonstration projects to develop and evaluate new techniques, approaches, and methods in the control, prevention, and abatement

of noise. And it would authorize to be appropriated $5,000,000 for fiscal year 1973, and $10,000,000 for fiscal year 1974, for this purpose.

I urge the adoption of this amendment.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

(Mr. STAGGERS asked and was given permission to revise and extend his remarks.)

Mr. STAGGERS. Mr. Chairman, I shall not take the full 5 minutes. I shall take but a moment because in my opinion the amendment is premature.

We are proposing to start a program of investigating and making research and then setting standards for the Nation and for the manufacturing of products.

Certainly, we do not want to put into this bill anything to tell the States that they can start saying that they are going into noise abatement control and other things.

What we are doing is simply making a start at the manufacturing end, that the new products which they manufacture in transportation, and so forth, will meet the standards established under the provisions of this bill.

We hope we can keep it in that simple fashion at the present time. Certainly, after a year or two, if this needs to be carried further, we can do it then.

So, Mr. Chairman, I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RYAN).

The amendment was rejected.

hearings described in section 16(d)(1) of such Act.'

"(2) The table of contents of the Federal Aviation Act of 1958 is amended by inserting immediately above the item relating to section 309 the following:

"'(c) Public hearings.'"

(Mr. COLLIER asked and was given permission to revise and extend his remarks.)

Mr. COLLIER. Mr. Chairman, as is probably obvious from my previous remarks, I have had to wrestle with the problem of air jet noise as it affects the average citizen perhaps more over the years than any other Member of this body. I realize, however, that many of my colleagues with districts adjacent to busy commercial airports can appreciate the deep concern and the aggravation of their residents in this regard.

I am not seeking to make any major changes, and in fact I laud the committee for what I think is a sound and sensible approach to this problem, but I do think that my amendment would accomplish one thing: I think that, if nothing else, the residents in an area adjacent to an airport should be apprised of any construction that is likely to increase the impact of noise upon their everyday lives.

What my amendment does is to say that where any commercial airport installation engages in an expansion, an extension of runways, or anything that would basically change the impact of the noise on the people in the area, they should at least be entitled to advance notice that this construction is going to be taking place, through a public hear-

we take up the airport construction bill again. This is an airport construction matter. So far as I know, in my part of the country, everybody is advised when a new airport is to start. I can recall one instance in which they notified all the people and the courthouse was filled. There was so much opposition at that time to an airport being constructed at a certain place that the FAA gave it up and said that they would not construct it there and that they would have to select a better place.

Well, when they came up with another place, another hearing was held in the courthouse and everybody had their say. There were a few who were opposed to it there, but the majority were for it.

Now I would say to the gentleman from Illinois that this committee when we have any other airport bill, certainly I would be very willing to put the gentleman's amendment on such a bill.

I do not think it should be put on this bill. I would be willing to say to him that this committee would give to the FAA now notice that this should be done until such time as we could put it in the proper bill and in the proper perspective.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. COLLIER. Mr. Chairman, first let me say that my amendment does not direct itself to the construction of new airports. This is for reasons I am sure the gentleman and I could not only understand but agree on. So the instance the gentleman mentions would not be

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AMENDMENT OFFERED BY MR. COLLIER

Mr. COLLIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLIER: Page 47, insert after line 12 the following:

"(c) (1) For the purpose of assuring that the public has adequate notice of and opportunity to present its views respecting the construction of a public airport or the construction or extension of a runway for such an airport, which has the effect of increasing noise levels in any community—

"(A) paragraph (1) of section 16(d) of the Airport and Airway Development Act of 1970 is amended by inserting '(A)' after 'certifies to the Secretary' and by inserting before the period at the end of such paragraph the following: '; and (B) that the public agency sponsoring such project published notice of each such public hearing not more than thirty days and not less than fifteen days before such hearing in a newspaper of general circulation in each community affected by such project, and further that the public agency sponsoring such project notify by registered mail the mayor or president of the towns, cities or villages contiguous to such airport of any proposed construction not less than sixty days before beginning any such construction as provided by regulations of the Secretary'; and

"(B) section 308 of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new subsection:

"'PUBLIC HEARINGS

"'(c) No public airport (as defined in section 1(12) of the Airport and Airway Development Act of 1970) may be constructed and no runway for such an airport may be constructed or extended unless, prior to the commencement of such construction or extension, there has been afforded the public notice and an opportunity for the public hearing where they would at least have their day in court.

This becomes essential because we have on two different occasions experienced situations in my area where construction was commenced with no knowledge on the part of the local officials, no knowledge on the part of the people living in the area. They subsequently engaged in litigation seeking to get an injunction, but they failed.

So this merely says that where an airport installation does expand, where they make changes, then have them give advance notice, 30 days before they commence work, and to notify the local officials so the people can at least come in, find out what is going to happen to them, and have their say in public hearings. That is all it does.

I hope that this body would see my amendment as a sensible amendment, and one that they could support. Thank you.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will say to the gentleman from Illinois, I respect his proposal very much. I enjoyed serving on the House Committee on Interstate and Foreign Commerce with him for a longer period of time. The gentleman was a very valuable and hardworking member of the committee. I know he does know the problems of these airports. He does an outstanding job for his constituents whom he is trying to protect.

But I would say, Mr. Chairman, that this is a noise control bill. I believe the proper place for this amendment is when related to what this amendment is directed to, and that is to the expansion of an existing facility.

Secondly, if the distinguished chairman for whom I have great respect, would notify me at the time the airport act is up for amendment, I would certainly yield to his wisdom by withdrawing this amendment and offering it at that time, because I do think public hearings under the circumstances generally prevail where there is an expansion of airport activity. That is the right of the people who live in that area.

Mr. STAGGERS. I can assure the gentleman that when the bill comes up that he would be notified and I will certainly be in favor of his amendment to that bill.

Mr. COLLIER. I thank the gentleman and will ask to withdraw my amendment.

Mr. Chairman, I respectfully ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. RYAN

Mr. RYAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RYAN: Page 63, insert after line 11, the following:

"OFFICE OF NOISE ABATEMENT AND CONTROL

"SEC. 17. In carrying out his functions under this Act, the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control established under section 402(a) of the Clean Air Act."

Page 31, in the table of contents, insert after the item relating to section 16 the following new item:

" Sec. 17. Office of Noise Abatement and Control."

The CHAIRMAN. The gentleman from New York (Mr. RYAN) is recognized in support of his amendment.

(Mr. RYAN asked and was given permission to revise and extend his remarks.)

Mr. RYAN. Mr. Chairman, I have long believed that it is essential that there be a focal point for the Federal Government's noise pollution program. Proliferating responsibilities throughout a vast Government bureaucracy almost inherently results in diminished focus—both in terms of the Government's ability to meet the problem and in terms of the public's ability to perceive the focus for its concerns, inquiries, and demands for action.

It was on the basis of this concept that Congress established the Office of Noise Abatement and Control by passage of the Clean Air Act Amendments of 1970—Public Law 91-604.

I believe that it is imperative that the Congress make clear its continuing desire that this Office be both maintained and strengthened as the core of the Federal assault on noise.

This should not be necessary, for one would be inclined to think the administration would undertake this action as a matter of course. But the history of this administration in regard to the Office of Noise Abatement and Control demonstrates its inclination to do quite ment and control program. And I fear that, now that the Office has completed those tasks mandated by title IV of the Clean Air Act Amendments of 1970, it will soon succumb to a silent death in the absence of further legislative history to the contrary.

I am sure that the committee does not intend to allow the Office of Noise Abatement and Control to fade away. Therefore, in order to clarify the situation and make clear the intent of Congress, I have proposed this amendment which provides that in carrying out his functions and responsibilities under the act, the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control.

The continuation and involvement of the Office of Noise Abatement and Control will not restrict the latitude of the Administrator in drawing upon the full resources of the Environmental Protection Agency in his efforts to combat the hazards of excessive and injurious noise.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I am happy to yield to the distinguished gentleman from West Virginia.

Mr. STAGGERS. The Clean Air Amendments of 1970 established an Office of Noise Abatement and Control. That office is still in operation. In fact, it does not matter what Mr. Fri said. The EPA cannot abolish the office since its creation was by statute. Therefore, the amendment is completely unnecessary. They are designed solely to give the industry the time to retire all aircraft with excessively noisy engines. In the meantime, the people who live in the vicinity of airports and under flight path approaches to airports will continue to suffer near unbearable levels of noise.

Congress passed the Noise Abatement Control Act in 1968 authorizing the FAA to set noise limits and require the installation of jet noise suppressors on existing aircraft. In November of 1970—almost 2 years after receiving the authority—the FAA issued an announcement of proposed rulemaking to require installation of noise suppression devices on existing jets.

At the time, I lauded this action as a definite step forward in reducing noise pollution in metropolitan areas such as New York. Had the FAA continued on its plan of action at that time, a rule could have been formulated by now and citizens could have looked forward to less noise in a few years.

But no, the FAA buckled down under the pressure of the airlines industry and in the spring of this year announced an 18-month delay in the rulemaking procedure. I can only presume that this Agency intends to wait until such a rule is no longer needed.

The present bill would only grant authority once again to reduce jet noise—authority already granted in the 1968 bill. What we must set up is a deadline for the installation of jet noise suppressors. This is clearly necessary after almost 4 years of delay and procrastination by the FAA. My amendment

the contrary.

Perhaps the most telling sign of this attitude is that the legislation introduced on behalf of the administration—H.R. 5275—would have specifically deleted the language in the Clean Air Act which directed the establishment of this office. Admittedly, one is hard-pressed to find this on a superficial reading of the bill, for the section—section 15 of H.R. 5275—which would have completely overturned the expressed will of Congress, was misleadingly entitled "Report of Noise Study." But this section, nonetheless, would have disregarded Congress mandate and eliminated the Office of Noise Abatement and Control.

I know that this matter was of great concern to the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. ROGERS) and that he requested a positive statement from the administration that the office would be retained and utilized. Yet, Robert W. Fri, Deputy Administrator of the Environmental Protection Agency, in testifying at the subcommittee hearings on behalf of the administration, refused to state positively for the RECORD that under the administration's plans the Office of Noise Abatement and Control would continue to be a functioning reality.

The possibility that this Office would be abolished cannot be countenanced.

Commendably, the committee bill does not include the administration provision dismembering the Office. But neither does the bill direct the continued utilization of this Office as the heart of the Goverment's noise prevention, abate-

Mr. RYAN. Mr. Chairman, in view of the statement of the distinguished chairman that the amendment is not necessary and in view of his assurance that the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control, the legislative history is absolutely clear. The amendment would now be superfluous. Therefore, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: On page 47 following line 12 insert:

(3)(1) Beginning on the expiration of the three-year period beginning on the date of enactment of this Act, it shall be unlawful for any air carrier to operate an aircraft in air transportation which has not had a noise-suppression device installed.

(3)(2) Whoever violates the provisions of subsection (1) of this section shall be subject to a civil penalty of not to exceed $10,000. If such violation is a continuing violation, each day of such violation shall constitute a separate offense.

(Mr. BIAGGI asked and was given permission to revise and extend his remarks.)

Mr. BIAGGI. Mr. Chairman, I rise to propose an amendment to require the installation of noise suppression devices on jet aircraft.

The provisions in this bill are too weak. would establish a 3-year deadline from the date of enactment.

Earlier this year Congress authorized $2.5 billion in loans to bail out corporations supposedly operating in the national interest. All it did was bail out the directors of these corporations and preserve annual dividends for the wealthy stockholders. My amendment would mean a little peace and quiet for Americans living near LaGuardia, JFK, as well as other jet airports throughout the Nation.

Mr. STAGGERS. Mr. Chairman, I rise to oppose the amendment. I do so very reluctantly because of my affection for the gentleman from New York. He is one of the finest gentleman in this House. The record which he has made is outstanding.

If we could do it and do it in a way that would be effective, we would certainly accept the amendment, but I believe I have to oppose it on the same ground on which we opposed the other amendments. It belongs in an airport safety bill. Also, if we put a noise abatement device on a plane, we may affect safety, and we have to give consideration first, certainly, to the safety of the traveling public. For that reason, I believe the amendment should be defeated. I hope the gentleman will bring this matter up at some time when we have an airport bill before the House, and at that time we can take care of it.

Mr. Chairman, I feel the Committee on Interstate and Foreign Commerce did an outstanding job in bringing this legislation to the House. I want to thank all members for the work they did on this

bill and I want to thank the staff as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes, pursuant to House Resolution 828, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ellberg	Lujan	Rooney, N.Y.
Erlenborn	McClory	Rooney, Pa.
Esch	McClure	Rosenthal
Eshleman	McCollister	Roush
Evans, Colo.	McCormack	Roy
Evins, Tenn.	McCulloch	Runnels
Fascell	McDade	Ruppe
Findley	McDonald, Mich.	Ruth
Flood	McEwen	Ryan
Flowers	McFall	St Germain
Ford, Gerald R.	McKay	Sandman
Ford, William D.	McKevitt	Sarbanes
Forsythe	McKinney	Saylor
Fountain	McMillan	Scherle
Fraser	Madden	Scheuer
Frelinghuysen	Mahon	Schneebeli
Frenzel	Mailliard	Schwengel
Frey	Mallary	Scott
Fulton	Mann	Sebelius
Fuqua	Martin	Seiberling
Gallagher	Mathias, Calif.	Shipley
Garmatz	Matsunaga	Shoup
Gaydos	Mayne	Shriver
Gettys	Mazzoli	Sikes
Giaimo	Meeds	Sisk
Gibbons	Melcher	Skubitz
Goldwater	Metcalfe	Slack
Gonzalez	Mikva	Smith, Iowa
Goodling	Miller, Calif.	Smith, N.Y.
Gray	Miller, Ohio	Snyder
Green, Oreg.	Mills, Ark.	Spence
Green, Pa.	Minish	Springer
Griffiths	Mink	Staggers
Grover	Minshall	Stanton, J. William
Gubser	Mitchell	Stanton, James V.
Gude	Mizell	Steed
Haley	Mollohan	Steele
Halpern	Monagan	Steiger, Ariz.
Hamilton	Montgomery	Steiger, Wis.
Hanley	Moorhead	Stokes
Hanna	Morgan	Stratton
Hansen, Idaho	Morse	Stuckey
Hansen, Wash.	Mosher	Sullivan
Harrington	Moss	Symington
Harsha	Murphy, Ill.	Talcott
Harvey	Murphy, N.Y.	Taylor
Hathaway	Natcher	Teague, Calif.
Hawkins	Nedzi	Terry
Hays	Nelsen	Thompson, Ga.
Hechler, W. Va.	Nix	Thompson, N.J.
Heckler, Mass.	Obey	Thomson, Wis.
Heinz	O'Hara	
Ashbrook	Fish	Mills, Md.
Baring	Foley	Myers
Belcher	Galifianakis	O'Neill
Blatnik	Grasso	Podell
Caffery	Hastings	Pryor, Ark.
Carey, N.Y.	Hébert	Rhodes
Clausen, Don H.	Hillis	Rostenkowski
Clay	Karth	Roybal
Denholm	Kyl	Smith, Calif.
Dennis	Landgrebe	Stubblefield
Dorn	Leggett	Tiernan
Dwyer	McCloskey	Vanik
Edwards, La.	Macdonald, Mass.	Wright

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Rhodes.

Mr. Anderson of California with Mr. Smith of California.

Mr. Carey of New York with Mr. Andrews.

Mr. O'Neill with Mr. Arends.

Mr. Clay with Mr. Podell.

Mr. Hébert with Mr. Myers.

Mr. Blatnik with Mr. Don H. Clausen.

Mr. Foley wtih Mr. Kyle.

Mrs. Grasso with Mrs. Dwyer.

Mr. Macdonald of Massachusetts with Mr. Hastings.

Mr. Pryor of Arkansas with Mr. Belcher.

Mr. Tiernan with Mr. Fish.

Mr. Stubblefield with Mr. Ashbrook.

Mr. Vanik with Mr. Landgrebe.

Mr. Galifianakis with Mr. McCloskey.

Mr. Caffery with Mr. Dennis.

Mr. Baring with Mr. Mills of Maryland.

Mr. Karth with Mr. Hillis.

Mr. Anderson of Tennessee with Mr. Denholm.

Mr. Dorn with Mr. Wright.

Mr. Roybal with Mr. Leggett.

Mr. LONG of Louisiana changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

Mr. NELSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 356, nays 32, not voting 43, as follows:

[Roll No. 55]

YEAS—356

Abernethy	Brinkley	Conte
Abourezk	Brooks	Conyers
Abzug	Broomfield	Corman
Adams	Brotzman	Cotter
Addabbo	Brown, Mich.	Coughlin
Alexander	Brown, Ohio	Culver
Anderson, Ill.	Broyhill, N.C.	Curlin
Annunzio	Broyhill, Va.	Daniels, N.J.
Archer	Buchanan	Danielson
Ashley	Burke, Fla.	Davis, Ga.
Aspin	Burke, Mass.	Davis, S.C.
Aspinall	Burlison, Mo.	Davis, Wis.
Badillo	Burton	de la Garza
Baker	Byrne, Pa.	Delaney
Barrett	Byrnes, Wis.	Dellenback
Begich	Byron	Dellums
Bell	Camp	Dent
Bennett	Carney	Derwinski
Bergland	Carter	Devine
Betts	Casey, Tex.	Dickinson
Bevill	Cederberg	Diggs
Biaggi	Celler	Dingell
Biester	Chamberlain	Donohue
Bingham	Chappell	Dow
Blackburn	Chisholm	Downing
Blanton	Clancy	Drinan
Boggs	Clark	Dulski
Boland	Clawson, Del	Duncan
Bolling	Cleveland	du Pont
Bow	Collier	Eckhardt
Brademas	Collins, Ill.	Edmondson
Brasco	Collins, Tex.	Edwards, Ala.
Bray	Conable	Edwards, Calif.
Helstoski	O'Konski	Thone
Hicks, Mass.	Patman	Udall
Hicks, Wash.	Patten	Ullman
Hogan	Pelly	Van Deerlin
Holifield	Pepper	Vander Jagt
Horton	Perkins	Veysey
Hosmer	Pettis	Vigorito
Howard	Peyser	Waldie
Hungate	Pickle	Wampler
Hunt	Pike	Ware
Hutchinson	Pirnie	Whalen
Jacobs	Poage	Whalley
Jarman	Poff	White
Johnson, Calif.	Powell	Whitehurst
Johnson, Pa.	Preyer, N.C.	Widnall
Jones, Ala.	Price, Ill.	Wiggins
Jones, N.C.	Price, Tex.	Williams
Jones, Tenn.	Pucinski	Wilson, Bob
Kastenmeier	Purcell	Wilson, Charles H.
Kazen	Quie	Winn
Keating	Quillen	Wolff
Kee	Railsback	Wyatt
Keith	Randall	Wydler
Kemp	Rangel	Wylie
King	Rees	Wyman
Kluczynski	Reid	Yates
Koch	Reuss	Yatron
Kuykendall	Riegle	Young, Fla.
Kyros	Roberts	Young, Tex.
Latta	Robinson, Va.	Zablocki
Lennon	Robison, N.Y.	Zion
Lent	Rodino	Zwach
Link	Roe	
Lloyd	Rogers	
Long, Md.	Roncalio	

NAYS—32

Abbitt	Hagan	Michel
Burleson, Tex.	Hall	Nichols
Cabell	Hammer-schmidt	Passman
Colmer	Henderson	Rarick
Crane	Hull	Rousselot
Daniel, Va.	Ichord	Satterfield
Dowdy	Jonas	Schmitz
Fisher	Landrum	Stephens
Flynt	Long, La.	Teague, Tex.
Griffin	Mathis, Ga.	Waggonner
Gross		Whitten

NOT VOTING—43

Anderson, Calif.	Anderson, Tenn.	Andrews
		Arends

A motion to reconsider was laid on the table. [p. H1539]

1.4a(3)(b) Oct. 12: Considered in Senate, pp. S17743–S17764, S17774–S17785

ENVIRONMENTAL NOISE AIR CONTROL ACT OF 1972

The PRESIDING OFFICER (Mr. STAFFORD). Under the previous order, the Senate will proceed to the consideration of S. 3342, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 1105 (S. 3342) a bill to amend title IV of the Clean Air Act, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Public Works with an amendment to strike out all after the enacting clause and insert:

SECTION 1. This Act may be cited as the "Environmental Noise Control Act of 1972".

SEC. 2. Title IV of the Clean Air Act Amendments of 1970 is amended to read as follows:

"SHORT TITLE; TABLE OF CONTENTS

"SEC. 401. This Act, including the following table of contents, may be cited as the 'Environmental Noise Control Act'.

"TABLE OF CONTENTS

"Sec. 401. Short title; table of contents.
"Sec. 402. Findings and policy.
"Sec. 403. Office of Noise Abatement and Control.
"Sec. 404. Definitions.
"Sec. 405. Research, investigation, training, and other activities.
"Sec. 406. Federal programs.
"Sec. 407. Noise criteria and control technology.
"Sec. 408. Noise emission standards for new products.
"Sec. 409. Labeling.
"Sec. 410. Imports.
"Sec. 411. Prohibited acts.
"Sec. 412. Enforcement.
"Sec. 413. Citizen suits.
"Sec. 414. Emergency situations.
"Sec. 415. Judicial review.
"Sec. 416. Records, reports, and information.
"Sec. 417. Federal procurement.
"Sec. 418. Grants for support of environmental noise planning and control programs.
"Sec. 419. Development of low-noise-emission products.
"Sec. 420. Authorization of appropriations.

"FINDINGS AND POLICY

"SEC. 402. (a) The Congress finds—

"(1) that environmental noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

"(2) that the major sources of noise emissions include aircraft, vehicles, machinery, appliances, and other products in commerce; and

"(3) that, while primary responsibility for control of environmental noise rests with State and local governments, Federal regulatory action is essential to deal with major noise emission sources, and Federal assistance is necessary to encourage and support programs for the control of environmental noise.

"(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their public health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in environmental noise control, to authorize the establishment of Federal noise emission standards for new products, to provide information to the public of the noise emission and noise reduction characteristics of new products, to encourage and support State and municipal programs for the control of environmental noise through planning and program grants to State and local environmental noise control agencies, and to provide information to the public on the control of environmental noise through regulation of use of products and other methods and procedures to reduce environmental noise.

"(c) Public participation in the development, revision, and enforcement of any regulation, noise emission standard, program or plan established by the Administrator or any State or municipality under this Act shall be provided for, encouraged, and assisted by the Administrator and the States and municipalities. The Administrator, in cooperation with the States and municipalities, within ninety days after enactment of this section, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"OFFICE OF NOISE ABATEMENT AND CONTROL

"SEC. 403. (a) The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare and administer the provisions of this Act.

"(b) The Administrator is authorized to prescribe such regulations as are necessary to carry out his function under this Act. The Administrator may delegate to any officer or employee of the Environmental Protection Agency such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient.

"(c) Upon the request of an environmental noise control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"(d) Payments under grants made under this Act may be made in installments, and in adavnce or by way of reimbursement, as may be determined by the Administrator.

[p. S17743]

"DEFINITIONS

"SEC. 404. For purposes of this title and title V of this Act:

"(a) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(b) The term 'person' means an individual, corporation, partnership, or association, and (except as provided in section 413 (a)(1) of this Act) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

"(c) The term 'product' means any manufactured article or goods or component thereof; except that such term does not include—

"(1) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act, as amended (49 U.S.C. 1431); or

"(2)(A) any military aircraft, rockets, weapons, or equipment which are designed for combat use; or (B) any aircraft, rockets, launch vehicles, spacecraft, or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration, as determined by the President under section 406 of this Act.

"(d) The term 'ultimate purchaser' means the first person who in good faith purchases a product for purposes other than resale.

"(e) The term 'new product' means a product the equitable or legal title to which has never been transferred to an ultimate purchaser. Products remanufactured or rebuilt by a manufacturer from used products to restore original functions shall be considered to be new products for the purposes of this title and title V of this Act.

"(f) The term 'manufacturer' means any person engaged in the manufacturing, assembling, or importing of new products, or who acts for, and is controlled by, any such person in connection with the distribution of such products, but shall not include any

"(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of environmental noise.

"(l) The term 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(m) The term 'noise emission standard' means a statement of a noise level or other acoustical characteristic which may not be exceeded under specified conditions or method of operation. Such standard shall include the test procedures to be followed and shall be stated in terms of performance rather than design criteria.

"(n) The term 'environmental noise' means the intensity, duration, and character of sounds from all sources.

"(o) The term 'cumulative noise exposure' means the exposure of individuals in defined areas around airports to noise from aircraft operations weighted by time of day."

"RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES

"SEC. 405. (a) The Administrator shall establish a national research and development program for the prevention and control of environmental noise and as part of such program shall—

"(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of environmental noise;

"(2) conduct and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

"(A) investigation of the direct or indirect effects of noise on humans (including physiological and psychological effects), and the direct or indirect effects of noise on domestic animals, fish, wildlife, and property,

with other public and private agencies, insttiutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities, including technical assistance;

"(3) make grants to environmental noise control agencies, to other public or nonprofit private agencies, institutions and organizations, and to individuals, for purposes stated in subsection (a) of this section;

"(4) contract with public or private agencies, institutions and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

"(5) provide training (without fee) for, and make training grants to personnel of environmental noise control agencies and other persons with suitable qualifications;

"(6) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

"(7) collect and make available through publications and other appropriate means, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on physical, and human and other effects of varying levels of noise and other information pertaining to noise and the prevention and control thereof; and

"(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of environmental noise.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known noise sources.

"(d) In carrying out research pursuant to

dealer with respect to any new product received by him in commerce.

"(g) The term 'dealer' means any person engaged in the sale or the distribution of new products to the ultimate purchaser who may prepare a product for sale or distribution to the ultimate purchaser: Provided, That when such dealer's preparatory or final assembly work involves modifications which increase the noise emission characteristics of such product, such dealer shall then be considered a manufacturer of such product for the purposes of this title and title V of this Act.

"(h) The term 'commerce' means trade, traffic, commerce, or transportation—

"(1) between a place in a State and any place outside thereof, or

"(2) which affects trade, traffic, commerce, or transportation described in paragraph (1) of this subsection.

"(i) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"(j) The term 'Federal agency' means any department, agency, or instrumentality of the United States including United States Postal Service.

"(k) The term 'environmental noise control agency' means any of the following:

"(1) A single State agency designated by the Governor of that State as the official State environmental noise control agency for purposes of this Act;

"(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of environmental noise;

"(3) A city, county, or other local government authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of environmental noise; or,

and determination of acceptable levels of noise on the basis of such effects; and

"(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce.

"(3) encourage, cooperate with, and render technical services (including the drafting of model ordinances) and provide financial assistance to environmental noise control agencies and other appropriate public or private agencies, institutions and organizations, and individuals in the conduct of such activities;

"(4) conduct investigations and research and make surveys concerning any specific problem of environmental noise in cooperation with any noise pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the noise is located; and

"(5) establish technical advisory committees composed of recognized experts in various aspects of noise to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research, and for other purposes.

"(b) In carrying out the provisions of the preceding subsection the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of activities pursuant to subsection (a) and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

"(2) cooperate with other Federal agencies, with environmental noise control agencies, this Act, the Administrator shall give special emphasis to research on the short- and long-term effects of environmental noise on public health and welfare.

"FEDERAL PROGRAMS

"SEC. 406. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 402 of this Act.

"(b) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the emission of noise shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products specified pursuant to section 404(c)(2) of this Act may be granted from the requirements of sections 408, 511, and 521 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new de-

termination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c)(1) The Administrator shall coordinate the programs of all Federal agencies relating to environmental noise research and environmental noise control. Each Federal agency shall furnish to the Administrator such information as he may reasonably require, to determine, as provided under section 309 of the Clean Air Act, if the nature, scope, and results of the noise research and environmental noise control programs of the agency are consistent with the purposes of this Act.

"(2) Each Federal agency shall consult with the Administrator in prescribing any regulations respecting environmental noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation of any Federal agency, respecting noise, does not protect the public health and welfare to the extent he believes to be required he shall request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request shall be published in the Federal Register and shall be accompanied by a detiled statement of the information on which such request is based. Such agency shall complete the requested review and report to the Administrator within 180 days after the date of the publication in the Federal Register of the request. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation.

"(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish annually a report to the Congress on the status and progress of Federal activities relating to municipal agencies, and other appropriate persons, shall compile and provide information on methods and techniques of controlling environmental noise through, among other means, product use control, land use regulation, and construction and building standards. Such information shall be compiled and published to assist State and local governments in establishing and enforcing environmental noise control programs supported under section 418 of this Act.

"(d) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

"(e) Any report under subsection (b)(1) of this section identifying major noise sources shall be published in the Federal Register. The publication or revision of any criteria or information on control techniques under this section shall be announced in the Federal Register, and copies shall be made available to the general public.

"NOISE EMISSION STANDARDS FOR NEW PRODUCTS

"SEC. 408. (a)(1) The Administrator shall publish proposed regulations establishing noise emission standards for new products or classes of products—

"(A) identified in any report published under section 407(b)(1) of this Act as a major source of noise, and

"(B) which falls in one of the following categories:

"(i) Construction equipment.

"(ii) Transportation equipment (including snowmobiles, motorcycles, and recreational vehicles and related equipment).

"(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

"(iv) Turbines and compressors.

"(v) Electrical and electronic equipment, except those products which are designed for the production or reproduction of music or sound (to the extent such reproduction is identical, except in amplitude, to the source based on information published under section 407 of this Act, reflects the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. In establishing such standards for any new product the Administrator shall assure that such standards are compatible with standards under other laws respecting emission of air or water pollutants and safety, including (but not limited to) any standard under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Clean Air Act (42 U.S.C. 1857 et seq.), or the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.). Any standard prescribed under subsection (a) or (b) of this section may contain provisions respecting instructions of the manufacturer for the maintenance or use of the product.

"(2) After publication of any proposed regulations under this section, the Administrator shall allow the public an opportunity to participate in rulemaking in accordance with section 553 of title 5, United States Code.

"(3) The Administrator may revise any noise emission standard prescribed by him in accordance with this section.

"(4) Any regulation prescribed under this section (and any revision thereof) shall take effect after a period not to exceed two years or such lesser time as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. Standards prescribed under this section shall apply to products manufactured on or after the effective date of such standards.

"(5) The Administrator may prescribe regulations defining 'effective date' for the purpose of assuring that products manufactured before the effective date of a regulation under this section were not manufactured for purposes of circumventing the effective date

environmental noise research and environmental noise control. This report shall describe the environmental noise control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control environmental noise.

"NOISE CRITERIA AND CONTROL TECHNOLOGY

"SEC. 407. (a) The Administrator shall, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, within nine months after the date of enactment of this section, issue, noise criteria. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise, and such criteria shall set forth levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

"(b) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall within fifteen months after date of enactment of this section compile and publish a report or series of reports (1) identifying products (or classes of products) which on the basis of information available to him appear to be major sources of noise, and (2) giving information on the processes, procedures, or operating methods which result in the control of the emission of noise, to implement noise emission control standards under sections 408, 501, 503, 511, and 521 of this Act, which such information shall include technical and other data, including costs, as are available on alternative methods of noise control.

"(c) The Administrator, after consultation with appropriate Federal, State, and reproduced).

"(vi) Percussion and explosive equipment.

"(2)(A) Regulations proposed under paragraph (1) shall be promulgated not later than eighteen months after the date of enactment of this Act, and shall apply to any appropriate new product described in paragraph (1) which is identified (or in a class identified) in any report published under section 407(b)(1) of this Act on or before the date of publication of such initial proposed regulations.

"(B) In the case of any new product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 407(b)(1) of this Act after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) of this subsection for such new product shall be promulgated by the Administrator not later than nine months after such report is published.

"(b) The Administrator may publish proposed regulations establishing noise emission standards respecting any new product for which he is not required to establish standards under subsection (a) of this section but for which, in his judgment, noise emission standards are requisite to protect the public health and welfare. Not later than six months after the date of publication of such regulations respecting such new product, he shall promulgate regulations establishing noise emission standards for such new prdouct.

"(c)(1) Any noise emission standard prescribed under subsection (a) or (b) of this section respecting a new product shall set limits on noise emissions from such new product over the useful life of the product (as determined by the Administrator taking into account the range of possible uses for the same type of product) and shall be a standard which in the Administrator's judgment, of such regulations.

"(d)(1) On and after the effective date of any standards prescribed under this section, the manufacturer of each new product shall warrant to the ultimate purchaser and each subsequent purchaser that such product is (A) designed, built, and equipped to as to conform at the time of sale with applicable regulations under this section, and (B) free from defects in materials and workmanship which cause such product, under normal use, operation, and maintenance to fail to conform with applicable regulations for its useful life, as determined by the Administrator, taking into account the range of uses for such product.

"(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

"(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statitics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act, as amended.

"(e)(1) No State or political subdivision thereof may adopt or enforce, with respect to (A) any product manufactured after the effective date of a regulation prescribed by the Administrator under this section or (B) any component incorporated into such product by the manufacturer of such product,

any standard setting a limit on noise emissions from such product enforceable against the manufacturer which is not identical to the standard prescribed by the Administrator.

"(2) Subject to paragraph (1) of this subsection, nothing in this section shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products: *Provided,* That such control, licensing, regulation, or restriction shall not, in the case of any motor carrier engaged in interstate commerce or any equipment or facility of a surface carrier engaged in interstate commerce by railroad, result in a limit on noise emissions for any carriers, equipment, or facility different than any limit contained in any regulation applicable thereto prescribed by the Administrator under this section of title V of this Act, except that in the case of such carriers the Administrator may by regulation, upon the petition of a State or political subdivision thereof and after consultation with the Secretary of Transportation, permit such more restrictive limits on such noise emissions through the application of use, operation, or movement controls or regulations as in his judgment are necessitated by special local conditions.

"(3) If, after promulgation of any standards and regulations under this section and prior to their effective date, a product is manufactured in compliance with such standards and regulations such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such product on the date of such compliance.

"LABELING

"SEC. 409. (a) The Administrator shall by regulation for any new product (or class thereof)—

and decision in the matter on execution of bond for the amount of the full invoice value of such product, together with the duty thereon, and on refusal to return such product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding it from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on products which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"PROHIBITED ACTS

"SEC. 411. (a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

"(1) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product, aircraft, or aircraft engine manufactured after the effective date of noise emission control standards prescribed under sections 408, 501, 503, 511, and 521 of this Act which are applicable to such product, unless such product is in conformity with such standards.

"(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, testing, repair, or replacement, of any device or element of design incorporated into any product, aircraft, or aircraft engine in compliance with noise emission standards promulgated under sections 408, 501, 503, 511, and 521 of this Act prior to its sale or delivery to the ultimate purchaser or during its term of use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative.

"(3) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

"(2) A new product intended solely for export, and so labeled or tagged on the outside of the container and on the product itself, shall be subject to noise emission standards of the country which imports such product. In no event shall the Administrator allow the export from the United States of any product subject to section 414 of this Act as a product, the noise emissions from which are an imminent and substantial endangerment to public health.

"ENFORCEMENT

"SEC. 412. (a) Any person who willfully or negligently violates paragraph (1), (3), (5), or (6) of subsection (a) of section 411 of this Act shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. In the case of a violation of paragraph (1) or (6) of subsection (a) of section 411 of this Act the fine shall be not less than $2,500 per day of violation. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(b) For the purpose of this section, each day of violation of section 411(a) of this Act shall constitute a separate violation of that section.

"(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 411(a) of this Act.

"(d)(1) Whenever any person is in violation of section 411(a) of this Act, the Administrator may issue an order specifying

"(1) identified pursuant to section 407(b)(1); or

"(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise,

require either (1) that a notice of the level of noise emission including the relationship to any applicable noise emission standard under section 408, or notice of the effectiveness in reducing noise (as the case may be) supplied by the manufacturer, be affixed to the new product and to the outside of its container at the time of its sale to the ultimate purchaser, or (2) that such notice of such level or effectiveness supplied by the manufacturer otherwise be given to the prospective user. He shall prescribe the form of the notice and the methods and units of measurement to be used for this purpose. Section 408(c)(2) shall apply to the promulgation of any regulation under this section.

"(b) This section does not prevent any State or political subdivision thereof from regulating product labeling in any way not in conflict with regulations promulgated by the Administrator under this section.

"IMPORTS

"SEC. 410. Any product offered for entry into the United States for which a standard or regulation has become effective pursuant to this title, which is not accompanied by certificate of compliance in the form prescribed by the Administrator, shall be refused entry into the United States. If a product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause disposal or storage of any product refused delivery which has not been exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such product pending examination duction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(b) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(3)(A) In the case of a manufacturer or dealer, the assistance of any person in a violation of paragraph (2)(A) of this subsection or the furnishing of information with respect to a violation of paragraph (2)(A) of this subsection.

"(B) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(a) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(4)(A) The removal by any person of any notice affixed to a product or container pursuant to regulations promulgated under section 409(a) of this Act prior to the sale of the new product to the ultimate purchaser, or (B) the sale of such product or container from which such notice has been removed.

"(5) The importation into the United States by any person of any new product in violation of regulations promulgated under section 410 of this Act that are applicable to such product.

"(6) The failure of any person to comply with any order issued under section 412(d) or 414 of this Act.

"(b)(1) The Administrator may after public hearings exempt for a specified period of time not to exceed one year, any new product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a) of this such relief as he determines is necessary to protect the public health and welfare. Such relief may include an order requiring such person to cease such violation, to notify ultimate purchasers of the risks associated with such violation, to make public notice of such risks, to recall any products responsible for such violation, to repurchase any such products, or to replace any such products. Such order may also require the seizure of any such products by the Administrator.

"(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5 of the United States Code.

"(e) When authorized by State law—

"(1) The Administrator may, by agreement with any environmental noise control agency with or without reimbursement, authorize law enforcement officers or other officers or employees of such environmental noise control agency to bring civil actions in the appropriate State courts to restrain any person from violating section 411(a).

"(2) The courts of such State may entertain any such civil action.

Nothing in this section shall affect the authority of an environmental noise control agency to commence a civil action under section 413 of this Act.

"CITIZEN SUITS

"SEC. 413. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (f) of this section), or

"(2) against—

"(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator.

"(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under this Act or section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator,

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise emission control requirement with respect to aircraft under this Act or section 611 of the Federal Aviation Act as amended) and (ii) to any alleged violator of such requirement, or

"(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall

"(b) The district court in which such action is filed shall have jurisdiction to declare such product a product the noise emissions from which are an imminent and substantial endangerment to public health, and to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent equitable relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of the original purchasers of such product of such risk, public notice, the recall, the repurchase, the repair, the replacement, or the seizure of such product.

"JUDICIAL REVIEW

"SEC. 415. Any judicial review of final regulations promulgated under this Act shall be in accordance with sections 701–706 of title 5 of the United States Code, except that:

"(a) a petition of review of action the Administrator in promulgating any standard or regulation under section 408, 501, 511, or 521 of this Act or any labeling regulation under section 409 of this Act may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil proceedings for enforcement except as to whether the administrative and judicial procedures of this Act have been observed;

"(b) if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator,

"(b) For the purpose of obtaining information to carry out titles IV and V of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(c) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information or particular part thereof (other than noise emisison data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his

prescribe by regulation.

"(c) In an action under this section, the Administrator of the Environmental Protection Agency or, if appropriate, the Administrator of the Federal Aviation Administration, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

"(f) For purposes of this section, the term 'noise control requirement' means any prohibition, standard, or requirement under section 408, 411, 501, 503, 508, 511, or 521 of this Act or a prohibition, standard, rule, or regulation issued under section 611 of the Federal Aviation Act of 1958, as amended.

"EMERGENCY SITUATIONS

"SEC. 414. (a) The Administrator or the Attorney General shall file, in a district court of the United States having venue thereof, an action against any product the noise emissions from which are an imminent and substantial endangerment to public health, or against any person who manufactures for sale, sells, or offers for sale, in commerce, or imports into the United States, such product. Such an action may be filed, notwithstanding the existence or nonexistence of a noise emission standard applicable to a product, or the pendency of administrative proceedings initiated pursuant to this Act.

the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence;

"(c) with respect to relief pending review of an action by the Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

"RECORDS, REPORTS, AND INFORMATION

"SEC. 416. (a) Such manufacturer of a new product, aircraft, or aircraft engine to which standards or regulations under sections 408, 501, 503, 511, or 521 of this Act or regulations under section 409 apply shall (1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act, (2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and (3) make new products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator, to the extent required by regulations of the Administrator.

control, from the duly authorized committees of the Congress.

"(d) Any communication from a person to the Administrator or any other employee of the Agency concerning a matter presently under consideration in a rulemaking or adjudicatory proceeding in the Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (c) of this section.

"(e) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"FEDERAL PROCUREMENT

"SEC. 417. (a) No Federal agency may enter into any contract for the procurement of goods, materials, or services with any person, who has been convicted of a criminal offense under section 412(a) of this Act and who, upon consideration of the gravity of the violation and the good faith of the person charged in attempting to achieve rapid compliance, the Administrator determines should be subject to the prohibition of this section. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to a conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act, the President shall,

not more than one hundred and eighty days after its enactment, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant loan, or contract to effectuate the purposes and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States, and he shall notify the Congress of such exemption.

"GRANTS FOR SUPPORT OF ENVIRONMENTAL NOISE PLANNING AND CONTROL PROGRAMS

"SEC. 418. (a)(1) The Administrator may make grants to environmental noise control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining programs for the prevention and control of environmental noise.

"(2) Before approving any grant under this subsection to any environmental noise control agency within the meaning of sections 404(k)(3) and 404(k)(4) of this Act, the Administrator (when appropriate) shall receive assurances that such agency provides for adequate representation of State, interstate, local, and international interests in its area of jurisdiction. Before approving any grant under this subsection the Administrator shall determine that the recipient is the appropriate environmental noise control agency for the jurisdictions involved in order to minimize overlap and duplication of effort.

"(3) Before approving any planning grant under this subsection to any environmental noise control agency within the meaning of sideration to (1) the population, (2) the extent of the actual or potential environmental noise problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of environmental noise unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would be in absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

"(c) Not more than 10 per centum of the total funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for environmental noise control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

"(d) The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 403(c) of this Act, when such detail is for the convenience of, and at the request of, such recipient and for the purposes of carrying out the provisions of this Act. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount

"(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

"(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(4) Certification under this section shall be effective for a period of one year from the date of issuance.

"(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

"(B) The Administrator shall publish in the Federal Register a notice of each application received.

"(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

"(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed

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sections 404(k)(3) and 404(k)(4) of this Act, the Administrator shall receive assurances that such agency has the capability of developing and enforcing a comprehensive environmental noise control plan.

"(4) Before approving any grant for purposes other than developing a program under this section to any environmental noise control agency within the meaning of section 404 of this Act, the Administrator shall determine that such agency has the authority—

"(A) to regulate the location, modification, and construction of any facilities within the area of jurisdiction of such agency which may result in the generation of environmental noise; and

"(B) to assure that the use of any product in the area of jurisdiction of such agency will not exceed applicable noise control levels;

"(C) to (i) identify, if appropriate, sources of environmental noise within the jurisdiction of such agency, and (ii) set forth procedures, processes, and methods (including land use requirements and design and construction standards) to control such sources to the extent feasible;

"(D) to acquire, maintain, and operate noise monitoring facilities in the field and otherwise, making public reports of noise emissions and levels of environmental noise disclosed by such monitoring, which reports shall be related to any applicable standards or limitations; and

"(E) to issue abatement orders.

"(b) From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from time to time make grants to environmental noise control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purposes of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to the relative needs of the various areas within the United States. Payments of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency.

"(e) There is authorized to be appropriated for this section $5,000,000 for fiscal year ending June 30, 1973, $7,500,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

"SEC. 419. (a) For the purpose of this section:

"(1) The term 'Committee' means the Low-Noise-Emission Product Advisory Committee.

"(2) The term 'Federal Government' includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

"(3) The term 'low-noise-emission product' means any product which emits noise in amounts significantly below the levels of other products in the competitive market for such product at the time of procurement.

"(4) The term 'retail price' means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

"(b)(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

"(2) The Administrator shall certify any product—

"(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

"(B) which is a low-noise-emission product as determined by the Administrator; and

under subparagraph (A).

"(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

"(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

"(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

"(c)(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

"(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

"(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for

which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

"(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

"(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at the time of purchase he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

"(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

"(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 420. There are authorized to be appropriated for the purpose of carrying out the provisions of this part, other than section 421, $30,000,000 for the fiscal year ending June 30, 1973, and $40,000,000 for the fiscal year ending June 30, 1974.

"NOISE STANDARDS FOR AIRCRAFT, AIRCRAFT ENGINES, PROPELLERS, AND APPLIANCES

"SEC. 421. (a) (1) The Administrator of the Environmental Protection Agency shall publish, and from time to time revise, a report which sets forth (A) information identifying aircraft, aircraft engines, propellers, and appliances which in his judgment cause or contribute to noise which is dangerous to the health or welfare of individuals, and (B) information on the effects of such noise on the health or welfare of individuals. Such report shall be published initially not later than January 1, 1973.

"(2) Not later than 90 days after the publication of the report required by paragraph (1), the Administrator of the Federal Aviation Administration shall prescribe, and from time to time revise, such standards and regulations as are necessary to control and abate noise which is dangerous to the health or welfare of individuals. Such standards and regulations shall be prescribed for aircraft, aircraft engines, propellers, and appliances identified in the report published under paragraph (1). Such standards and regulations shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(3) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(4) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(5) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(6) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(7) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(8) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(9) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(10) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(11) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(12) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(13) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(14) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(15) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(16) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(17) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(18) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(19) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(20) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(21) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(22) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(23) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(24) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(25) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(26) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(27) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(28) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(29) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(30) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(31) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(32) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(33) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(34) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(35) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

"(36) Standards and regulations prescribed under paragraph (2) shall be prescribed in accordance with section 611 of the Federal Aviation Act, as amended, and shall be applicable to aircraft, aircraft engines, propellers, and appliances when they are certificated under that Act.

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propriated to carry out this Act (other than sections 418 and 419) $18,000,000 for the fiscal year ending June 30, 1973; $36,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975."

SEC. 3. The Clean Air Act is amended to add a new title V as follows:

"TITLE V—MAJOR MOVING SOURCES

"PART A—CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 501. (a) In order to afford present and future relief and provide protection to public health and welfare from aircraft noise and sonic boom—

"(1) the Administrator of the Environmental Protection Agency, after consultation with the Administrator of the Federal Aviation Administration, shall promulgate and amend standards for the measurement of aircraft and aircraft engine noise and sonic boom; and

"(2) the Administrator of the Environmental Protection Agency shall promulgate and amend regulations with respect to noise emissions from aircraft and aircraft engines which in his judgment are adequate to protect the public health and welfare with an adequate margin of safety.

"(b) (1) Any regulations under this section, or amendments thereto, with respect to noise emissions from types of aircraft or aircraft engines, shall reflect the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the cost of compliance, as determined by the Administrator of the Environmental Protection Agency and the Administrator of the Federal Aviation Administration, and shall not be promulgated until the Administrator of the Federal Aviation Administration has determined that such regulations are consistent with the highest degree of safety in air commerce and sultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 501 of this Act. The regulations of the Secretary of Transportation shall include provisions making such standards respecting noise emissions from any type of aircraft applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act, as amended, or the Department of Transportation Act, as amended. Such Secretary shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"(b) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards, rules, or regulations applied to aircraft or aircraft engines existing on the date of enactment of the Environmental Noise Control Act of 1972, is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609 of the Federal Aviation Act, as amended, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standards, rules, or regulations, and that such amendment, modification, or revocation by the Board is consistent with safety in air transportation.

"SEC. 504. The Administrator of the Federal Aviation Administration shall not issue a type certificate under section 603(a) of the Federal Aviation Act, as amended, for any aircraft, or for any aircraft engine, propeller, or appliance that affects significantly the noise or sonic boom characteristics of any aircraft, after July 1, 1973, unless standards, ing:

"(1) The flight is necessary to show compliance with an airworthiness regulation or is necessary for aircraft development.

"(2) The flight is necessary to determine the sonic boom characteristics of the airplane, or is necessary to establish means of reducing or eliminating the effects of sonic boom.

"(3) The flight is necessary to demonstrate the conditions and limitations under which speeds greater than a true flight mach number of 1 will not cause a sonic boom to reach the land or water surface of the earth.

"(c) An application for an authorization to exceed mach 1 must be made on a form and in a manner prescribed by the Administrator of the Environmental Protection Agency. In addition, for an authorization covered by subsection (b) of this section, each application must contain—

"(1) information showing that operation at speeds greater than mach 1 is necessary to accomplish one of the purposes specified in subsection (b) of this section;

"(2) a description of the flight test area proposed by the applicant; and

"(3) conditions and limitations that insure that no sonic boom will reach the land or water surface outside of the designated flight test area.

"(d) An application for an authorization to exceed mach 1 shall be denied whenever the Administrator of the Environmental Protection Agency finds that such research and development flight or flights may adversely affect public health or welfare or the quality of the environment.

"(e) An authorization to exceed mach 1 is effective until it expires, or until it is surrendered, and shall be terminated by the Administrator whenever he finds that such action is necessary to protect public health or welfare or the quality of the environment.

"(f) Any violation of this section shall be

subject to the penalties prescribed under subsection (a) of section 412 of this Act.

"PART B—RAILROAD NOISE EMISSION STANDARDS

"SEC. 511. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"SEC. 512. The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 521 of this part. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section and section 521 of this part shall be subject to the provisions of sections 411.

emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"SEC. 522. The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 521 of this part. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section and section 521 of this part shall be subject to the provisions of sections 411.

pliance with all standards promulgated by the Administrator under section 511 of this Act. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section and section 511 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"SEC. 513. Nothwithstanding any other provision of this Act, after the effective date of regulations under this part, no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of equipment or facilities of surface carriers engaged in interstate commerce by railroad unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: Provided, however, That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation may determine to be not in conflict with regulations promulgated under this part.

"SEC. 514. The terms 'carrier' and 'railroad' as used in sections 511, 512, and 513 of this part shall have the same meaning as such terms have under section 22 of title 45 of the United States Code.

"PART C—MOTOR CARRIER NOISE EMISSION STANDARDS

"SEC. 521. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise

412, 413, 415, and 416 of this Act.

"SEC. 523. Notwithstanding any other provision of this Act, after the effective date of regulations under this part no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of motor carriers engaged in interstate commerce unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: *Provided, however,* That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation, may determine to be not in conflict with regulations promulgated under this part.

"SEC. 524. The term 'motor carrier' as used in sections 521, 522, and 523 of this part shall have the same meaning as those terms as defined in section 303(a) (14), (15), and (17) of title 49 of the United States Code."

SEC. 4. There is hereby authorized to be transferred to the Administrator any function or personnel of the Department of Transportation with respect to the control and abatement of aircraft noise which the President determines is necessary to carry out section 3 of this Act.

JORGE ORTUZAR-VARAS AND MARIA PABLA DE ORTUZAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate turn to the consideration of Calendar No. 1230. This matter has been cleared all the way around.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14128) for the relief of Jorge Ortuzar-Varas and Maria Pabla de Ortuzar.

The bill was considered, ordered to a third reading, read the third time, and passed.

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

The Senate resumed the consideration of the bill (S. 3342) to amend title IV of the Clean Air Act, and for other purposes.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Public Works be permitted to be on the floor during the consideration and any votes on S. 3342: Barry Meyer, Philip Cummings, John Yago, Leon G. Billings, Bailey Guard, Richard Hellmann, Don Alexander, and Charlene Sturbitts and Jane Frank of my staff, and Mr. Hal Brayman of the staff of the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. CANNON. Mr. President, I ask unanimous consent that during the consideration of this bill Robert Ginther, Bill Frank, and Mike Pertschuk be permitted on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I can think of no better way to introduce the subject of environmental noise control than to read a letter which I recently received from a constituent.

She wrote:

DEAR SENATOR TUNNEY: I heard you were out here in California checking on the noise. Where you went of course [there] wouldn't be any noise . . . Come to my house—stay one day—let no one know you are here. You will hear with your own ears—I will take you around—see the other sections that are affected.

The noise is so bad at my house—you could cry—it hurts your ears so much. When a plane comes directly over my house—it shakes the house and that squeal is so bad for the ear drums. . . .

When children will start crying when a plane flies overhead you know their ears will soon be deafened (so they will not hear that screech).

Do you know that seven schools are under the south runway [and] are going to be taken down. Look at all that money wasted. So easy to have just a westerly landing and that would be all removed.

Please, please—on bended knees, help us—do something . make it a law. . .

Well, we have worked hard to "make it a law" on this subject. S. 3342, the Environmental Noise Control Act of 1972, would go a long way toward solving the aircraft noise problem, as well as the din from other major noise sources ranging from motorcycles to vacuum cleaners, to jackhammers to electric blenders. For the first time, in the version of the legislation reported by the Senate Public Works Commitee, we would establish a comprehensive Federal program—including grants to States and cities to support programs geared to local needs—to deal with noise pollution in much the same way and at the same level of priority as the Congress has dealt with air and water pollution.

Treating the subject of noise pollution as a total system, the legislation would require the Environmental Protection Agency to set noise emission levels from major noise sources adequate to protect the public health and welfare. It would provide technical and financial assistance to the States and cities while leaving them free to set the strongest possible noise control programs.

The legislation has broad-based support from such widely divergent groups as labor unions, the Airport Operators Council, environmental organizations, the American Public Health Association, the League of Cities, Council of Mayors, the National Governors Conference, and representatives of the industry. Support is especially strong for title V, which includes provisions for establishing the Environmental Protection Agency as lead agency in setting noise emission standards for aircraft.

islation was thoroughly con-
legislative hearings and ex-
cutive sessions. The hearings
egislation pointed up some
atistics about the subtle and
ffects of noise on hearing and
cts of health. According to
llion Americans are adversely
noise. Of these, about 40 mil-
lion persons are literally listening to a health hazard, risking hearing impairment and other physiological and psychological effects. This figure does not include an additional 17 million workers who have incurred job-related hearing damage. Fifteen million people who live near airports all around the country are adversely affected by aircraft noise and

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suffer health impairment which includes loss of sleep, anxiety, and interference with classroom learning and with normal conversation.

The hearings also explored the total inadequacy of present law to deal with the health need. Under the Clean Air Act Amendments of 1970, EPA is given study and review authority over Federal activities which result in a noise nuisance. But neither EPA nor any other Federal agency is given regulatory authority to set noise emission standards adequate to protect the public health.

The hearings showed, too, that States and cities are becoming increasingly frustrated at their inability to deal effectively with local noise problems: caught in a financial squeeze, they lack the tools and training to do the job they need. Indeed, a study by EPA of past State and local efforts shows that the most outstanding States have spent a paltry 10 cents per capita on noise controls; most States have spent as little as one or 2 cents per capita—or nothing at all. In the past year alone, EPA has received requests from 28 States and 111 cities for technical and financial assistance—demands which it has no authority to meet under present law.

Most frustrated of all are the people—who are bringing billions of dollars in damage suits against airport authorities—and hundreds of millions of dollars in compensation claims for hearing loss.

At Los Angeles International Airport alone, $14 billion in nuisance suits are pending—a situation which prompted the city attorney of Los Angeles to

includes the concept of a limitation on noise which would be applicable to every individual source in such a defined geographic area.

Under the regulatory provisions of the act, within 15 months after enactment of the legislation, the Administrator is required to prepare public reports identifying products which appear to be major sources of noise. Identification as a major source of noise is the first step in the development of noise emission standards for particular products.

Noise emission standards must be established for any major source of noise which falls into the categories of construction equipment, transportation equipment, motors or engines, turbines and compressors, percussion and explosive equipment, or electrical and electronic equipment—other than sound reproduction equipment. These standards must take effect no later than 2 years after the date of promulgation or any shorter period which permits the application of the necessary technology. The Administrator is given authority to define "effective date" in such a way as to prevent the stockpiling of inventories to circumvent the purpose of the standards.

Standards for new products are required to set limits on noise emissions which in the Administrator's judgment reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. The difficulty of relating noise emissions from a given source to effects on public health and welfare in an enforceable way led

primary responsibility under the bill for setting and enforcing limits on environmental noise which in their view are necessary to protect public health and welfare. This essentially local responsibility is not assumed or interfered with by this bill, although Federal guidance, technical and financial assistance are provided.

Under the legislation, at a minimum, States and local governments may reach or maintain levels of environmental noise which they desire through operational limits or regulations on products in use—such as speed or load limits or prohibitions of use in given areas or during given hours—quantitative limits on environmental noise in a given area which may be enforced against any source within the area, including zones adjacent to streets and highways, regulations limiting the environmental noise which may exist at the boundary of a construction site, nuisance laws, or uses which do not amount to a burden manufacturers must meet to continue in business.

In a letter to the Editor of the New York Times dated September 29, 1972, which discusses pre-emption under the legislation, EPA Administrator Ruckelshaus draws an analogy to the regulation of alcoholic beverages, and states:

This relationship between Federal, state and local controls is not unusual or unworkable. There are many precedents. For example, consider the case of alcoholic beverages. Such beverages only can be manufactured and introduced into interstate commerce in accordance with strict Federal specifications and regulations. However, states and cities can forbid their use or they

threaten to close down the airport. He seems to have recanted, but if the airport does close, thousands of jobs will be lost. This is in addition to the enormous impairment to air commerce.

Another problem discussed at the hearings was the decline of property values due to high levels of noise. A study conducted in Inglewood, Calif., shows land subject to noise levels less than 80 PndB was valued an average 50 percent higher than land subject to noise levels greater than 100 PndB.

For the first time, in S. 3342 we would define and meet the health needs, provide an adequate regulatory mechanism at the Federal level, and provide for technical and financial assistance to the States and cities.

Specifically to deal with the health need, section 407(a) of the bill requires the Administrator, within 9 months after enactment, to issue noise criteria reflecting all the identifiable effects of differing quantities and qualities of noise on public health or welfare. He will be expected to produce criteria documents very much like those prepared under the Clean Air Act for similar uses. These criteria must set forth the levels of environmental noise which are requisite to protect the public health and welfare with an adequate margin of safety.

The concept of environmental noise is is used through the bill to describe the overall level of noise in a given area to which individuals are exposed, including the intensity, duration, and character of sounds from all sources. It also the committee to conclude that implementation of a technologically based standard was preferable in terms of uniformity and enforceability to one calling for protection of the public health and welfare. While the intention of the whole bill is to protect public health and welfare from environmental noise, the committee expects that the application of the best available technology will just begin to realize that goal in the foreseeable future.

After the effective date of standards applicable to a product, the manufacturer must warranty to the purchaser and subsequent owners of that product that it conforms with the standards at the time of sale and that it is free from defects in materials and workmanship which cause the product, under normal use, operation, and maintenance, to fail to conform during its useful life.

For any product manufactured after the effective date of an applicable Federal standard, authority to establish noise emission standards for the product enforceable against the manufacturer is preempted. States and cities, however, retain complete authority to establish and enforce limits on environment noise through the licensing, regulation, or restriction of the use, operation, or movement of a product, or concentration or combination of products.

In the judgment of the committee, noise emission standards for products which must be met by manufacturers should be uniform. On the other hand, States and local governments have the can determine the method of sale, distribution or use, and control the hours, circumstances and locations of use. The states and cities cannot impose standards regarding content or specification for manufacture. This is the same situation as proposed for the control of noise sources—the Federal control does not inhibit the state and local use controls.

The bill generally parallels the enforcement authority of the Clean Air Act. This includes criminal penalties of $25,000 or 1 year's imprisonment for the first violation of the prohibited acts section applicable to manufacturers. The bill also provides authority to enjoin any violation. In addition, the bill makes it a criminal violation for a manufacturer or dealer to assist any person in removing or disconnecting a noise suppression device or the giving of information to any person on how to remove or disconnect such device for purposes not allowed by the bill.

Standards apply to all new products except those intended solely for export. Exported products have only to comply with applicable foreign standards.

The bill also provides authority for citizens to sue in the Federal district courts to abate violations of the requirements of the law. This section is nearly identical to the citizen suit provisions in the Clean Air Act—section 304—and the committee intends that it be utilized and interpreted in a similar fashion.

To aid the States and cities, the Administrator is authorized to grant a total of $22.5 million over a 3-year period to State and local environmental noise con-

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trol agencies. Grants are limited to two-thirds of planning and development costs and one-half of maintenance costs, in order to highlight the importance of getting new programs off the ground. No one State may receive more than 10 percent of the total funds, and, where an environmental noise control agency program encompasses more than one State, funds are apportioned.

Through explicit qualifications in the legislation, a noise pollution control agency must have effective enforcement capability in order to qualify for Federal funds.

Over 3 years $104,000 in funds are provided to implement general provisions of the act.

A separate title, title V, in the legislation would deal with "Major Moving Sources," a category which includes aircraft, trucks, and trains. While, in each instance, EPA would be lead agency in setting emission levels from these sources adequate to meet public health and welfare needs, the process by which these various levels become actual standards would involve the special competence of other Federal agencies which have certain technical expertise with respect to these products.

In the case of aircraft, EPA would set emission standards adequate to meet the health needs. Standards for noise emissions from aircraft, which actually define what aircraft manufacturers and air carriers must attain, would be promulgated on the basis of the degree of noise reduction achievable through the application of best available demonstrated technology, taking into account

mittee were strongly in favor of utilizing such additional methods, the committee felt that it had insufficient knowledge as to the precise regulatory mechanism for cumulative aircraft noise exposure. Therefore, the committee included in the bill, in place of any regulatory scheme dealing with community noise around airports, a 1-year study by the EPA of the implications of identifying and achieving levels of cumulative noise exposures around airports. The results of this study, submitted to the Committees on Public Works and Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House will form the basis for any legislation on aircraft noise in the next Congress.

Also included in this study are the adequacy of FAA flight and operational noise controls, the adequacy of noise emission standards on new and existing standards on new and existing aircraft—together with the EPA's recommendations on the retrofitting and phaseout of existing aircraft—and any additional measures available to airport operators and local governments to control aircraft noise.

The EPA study and recommendation called for by section 502 is not merely an extension of the investigations on this subject performed by EPA as required by title IV of the Clean Air Act Amendments of 1970. Rather, it is an effort to deal comprehensively with and develop an orderly national program for an urgent problem that has heretofore been dealt with on a piecemeal basis.

There are already in progress a number of investigations and activities on the

siderations. Nowhere is there presently established overview authority. The purpose of section 502 is to insure that all of this related, but presently disorganized, activity is brought into perspective and evaluated by an independent agency whose primary concern is that of environmental quality and the protection of health and welfare.

Tools other than noise emission standards do exist for reducing aircraft noise. It is the intention of the committee in section 501(c) of the bill that all existing authority over aircraft or aircraft noise be utilized to reduce that noise, including, among other things, the consideration of flight and operational changes such as the two-segment landing approach and the adjustment of take-off, approach and flight paths to impact fewer people, and review of traffic flow with regard to adequacy of load factor.

States and the local governments are preempted from establishing or enforcing noise emission standards for aircraft unless such standards are identical to standards prescribed under this bill. This does not address responsibilities or powers of airport operators, and no provision of the bill is intended to alter in any way the relationship between the authority of the Federal Government and that of State and local governments that existed with respect to matters covered by section 611 of the Federal Aviation Act of 1958 prior to the enactment of the bill.

Commercial flights of supersonic aircraft at supersonic speeds over the United States are forbidden, except for defined research and development purposes.

the cost of compliance, as determined by EPA and the Federal Aviation Administration. FAA would be given a twofold veto over proposed standards, if technology were not available or standards were not consistent with the highest degree of safety. Under this scheme, each agency would take responsibility for those matters for which it has demonstrated competence.

In addition, the bill provides that existing standards promulgated under section 611 of the Federal Aviation Act will continue in effect until modified in accordance with the provisions of this bill. The Administrator of the Environmental Protection Agency is directed to review those standards within 9 months after enactment for consistency with the requirements of this bill. Original type certificates cannot be issued after July 1, 1973, unless noise emission standards which apply to such aircraft have been promulgated. Violations of the standards would be subject to the penalties and abatement procedures under title IV, including citizen suits to abate violations.

The committee considered approaches to controlling aircraft noise based on a concept of cumulative noise exposure, involving the level of noise from aircraft to which individuals in the areas surrounding airports are exposed and the effects of such exposure on public health and welfare. While methods other than noise emission standards can be effectively utilized to reduce aircraft noise, and while many members of the committee part of a variety of Federal agencies on the subject of aircraft and airport noise. These include among others: the report of the Aviation Advisory Commission called for by the Airways and Airport Improvement Act of 1970, the research on development of quiet engines being accomplished by the National Aeronautics and Space Administration and the research on aircraft engine retrofit requirements being undertaken by the Federal Aviation Administration.

In addition, it is known that the executive branch of the Government through the Office of Management and Budget, and the National Aeronautics and Space Council is conducting studies and evaluations on aircraft noise problems and associated matters.

The Environmental Protection Agency along with the Department of Transportation and the Department of Housing and Urban Development have undertaken initial research on community noise, measurement, evaluation and description. It is also known that within its limited resources the Environmental Protection Agency has also initiated a study on the wide variety of schemes and methods used for aircraft noise, evaluation, and measurement. The Department of Defense through the U.S. Air Force Aerospace Medical Research Laboratory is undertaking a comprehensive investigation of the noise exposure forecast system and the background material upon which that system is based. All of these studies are viewing the problem from different viewpoints and different con-

Standard-setting for railroads and trucks involve the Secretary of Transportation safety inspection and regulatory authority of the Secretary of Transportation. Local regulations are preempted except where necessitated by local conditions.

In conclusion, the legislation provides the first comprehensive program to control noise from all major noise sources—including aircraft. We have kept the people waiting long enough. We have their strong support for this bill. It is time to move forward.

Mr. President, I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

S. 3342

On page 90, beginning at line 24, strike out all through line 14 on page 91 and insert, in lieu thereof, the following:

"SEC. 502. (a) (1) Within 180 days after the

enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate rules and regulations, based on criteria published pursuant to section 407(a) of this Act, to establish levels of cumulative noise exposure in the environment of airports and surrounding areas affected by noise from aircraft which levels shall be adequate to protect the public health and welfare with an adequate margin of safety.

"(2) Within 90 days after promulgation of regulations required by paragraph (1), the Administrator of the Environmental Protection Agency shall promulgate and amend standards for the measurement of levels of cumulative noise exposure.

"(b) Within 270 days after the promulgation of rules and regulations establishing levels of cumulative noise exposure, the Administrator of the Environmental Protection Agency shall identify and publish in the Federal Register those airports in the vicinity of which he has reason to believe such levels are or may be exceeded, and at any time thereafter the Administrator shall identify and publish in the Federal Register any other airports for which he subsequently receives evidence that levels of cumulative noise exposure are being exceeded.

"(c)(1) Within 90 days after an airport is identified pursuant to subsection (b) of this section, the Administrator of the Environmental Protection Agency shall monitor the levels of cumulative noise exposure in the vicinity of the airport, and shall install devices to monitor on a continuing basis the levels of cumulative noise exposure in the vicinity of the airport and shall periodically, but at least annually, examine the devices to assure accuracy and make a determination of the adequacy of the measures taken to attain and maintain such levels;

"(2) The Administrator of the Environmental Protection Agency shall make public the data derived from such monitoring, correlated with the levels of cumulative noise

Mr. MUSKIE. Mr. President, the Senate need look no further than the general statement section of the committee report on this bill for the facts which justify a major Government effort to control and reduce noise pollution. As chairman of the Subcommittee on Air and Water Pollution, however, I am sorry to have to say to this body that the legislation which it now considers will not provide the kind of action that those facts demand.

The Environmental Noise Control Act of 1972, S. 3342, was introduced on March 14, 1972 by Senator JOHN V. TUNNEY and myself. That legislation was different than either the House-passed bill, H.R. 11021, or the administration's bill, S. 1016, in purpose and intent. The bill which we introduced was not primarily designed to relieve product manufacturers from the effect of State noise pollution regulatory programs. Nor was it designed primarily to relieve transportation companies, particularly the airlines, from effective noise regulations.

We wanted to establish a means to reduce as rapidly as possible, through the application of available control measures, the exposure of people to noise by reducing noise at its source, by changing the way noisy products are used, by controlling noisy activities, and by such other means that are available.

Our bill was an environmental regulatory measure. We recognized that the regulation of noise would have an impact on commerce, but we also recognized that the purpose of regulation must be the reduction in the volume, intensity, and character of noise to which people source of the noise, so that products and activity will not present a noise pollution problem alone or in combination with each other.

To a degree, the legislation reported by the committee moves in this direction. Through the establishment of a regulatory mechanism which permits the Administrator to impose noise emission restrictions attainable through the application of the best available technology, the Administrator will be able to press the limits of our capability to reduce noise from new products.

The bill does not, however, provide adequate options in those cases in which the best available technology is not adequate to achieve environmentally acceptable levels of noise. It does not protect adequately the authority of States and local government to safeguard the environment in which their citizens live. It does not give States the opportunity to ban the sale of federally regulated products which, in their jurisdictions, still emit unacceptable levels of sound. And at the same time, it does not expedite Federal regulation, thus holding out the hope of a quieter environment with no guarantee of early improvement.

By preempting State authority to restrict sale of noisy products, the bill places the burden on the consumer to take the risk of buying products which cannot be used in the manner intended at the time of purchase. The preemption provision limits State authority to restricting the manner of use of noisy products regulated by the Federal Government.

The Committee on Public Works is not

exposure established pursuant to subsection (a) of this section.

(d) (1) The Administrator of the Federal Aviation Administration, after consultation with the Administrator of the Environmental Protection Agency, shall develop and publish information on alternatives for reducing noise at airports and in the vicinity of airports, which information shall indicate the maximum degree of noise reduction control which can be achieved with available technology which is consistent with safety. Alternatives considered may include modifications and limitations on the number and frequency of operations, modifications of hours of airport operation, any other adjustments in operation of such airport, and any alternative controls or modifications of the use of land (including use of buildings and facilities, building code changes, etc.) surrounding such airport.

"(2) Where an airport is identified pursuant to thee procedures in subsection (b) the Administrator of the Federal Aviation Administration shall provide technical assistance to the operator of such airport to develop methods to attain and maintain levels of cumulative noise exposure through implementation of alternatives such as those published in accordance with paragraph (1) of this subsection.

"(e) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the provisions of this section not to exceed $15,000,000 for the fiscal year ending June 30, 1973, and $15,000,000 annually for each of the three succeeding fiscal years.

"(f) Nothing in this section shall limit the authority of an airport operator for other than emergencies to limit the number of frequency of operations or modify or limit the hours of airport operations in order to attain or maintain such levels.

are exposed in their daily lives from sources over which they have no control.

As the third annual report of the President's Council on Environmental Quality stated:

It is increasingly difficult for any individual—in urban or rural America—to escape noise. For many city residents, noise may be the single most pervasive environmental pollutant.

The committee report itself notes that noise has—

A significant impact on more than 80 million Americans . . . 40 million Americans risk hearing impairment and ohter physiological and psychological effects . . . 44 million Americans have the uitility of their dwellings adversely affected by noise from aircraft or traffic . . . 21 million Americans are similarly affected by construction-related noise.

In the face of these facts, we have no right to adopt any more lenient a policy against noise pollution than we have adopted against air and water pollution. It will not be an easy task, because we will have to give States and localities much more flexibility to impose strict controls in controlling noise within their own jurisdictions than in controlling air and water pollution.

Noise is not subject to easy regulation. Unlike the common air and water pollutants, noise does not accumulate in the environment. Noise is not subject to collective treatment and reduction processes. As a practical matter, then, the best method to reduce noise is to apply stringent emission regulations at the unfamiliar with the problem of preemption. The Air Quality Act of 1967, which I sponsored, provided for Federal preemption of the authority to regulate air pollution emissions from new automobiles, except in California. That policy may have had an effect opposite of that which was intended. It appears that the preemption provision of that act did not cause the auto companies to focus their research efforts and investments on one set of national standards. Rather, the auto companies' efforts have been focused on undermining those national standards.

Again in 1970, preemption was discussed in relation to regulation of air pollution emissions from aircraft. The Congress decided on a preemption provision effective on enactment and set deadlines for standards to be developed.

Section 231(a) of the Clean Air Act requires that the Environmental Protection Agency must begin an investigation of air pollution from aircraft within 90 days of date of enactment. Within 180 days after commencing that investigation, the Environmental Protection Agency is required to report on the investigation and propose emission standards for any class of aircraft or aircraft engines which contributes to air pollution which endangers public health and welfare. Ninety days thereafter—1 year after enactment—EPA was to issue final regulations. The proposed standards were due over 1 year ago, September 27, 1971. Today, no report or proposed standards have been published.

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This is a classic example of Federal preemption leading to Federal failure to protect public health. The Federal Aviation Administration has undoubtedly discouraged active efforts by the Administrator. And the efforts that the Environmental Protection Agency has made have run aground in the Office of Management and Budget.

Therefore, when the committee considered the pending legislation, I expressed reservations regarding a broad preemption provision for product and aircraft emission standards. The States have moved actively in this field. Federal noise pollution responsibility is new and little significant authority or responsibility exists, but a number of States have regulatory programs which impose emission controls on noisy products which are enforceable both at the point of sale and at the point of use.

I cannot support Federal preemption which protects product manufacturers and the air transportation industry without effective regulatory programs which will enhance the quality of the environment. Substituting Federal law for State law with even less assurance that public health will be protected is poor public policy.

My second major concern with the legislation reported from the committee deals with the problem of aircraft noise and regulatory mechanism recommended to cope with that problem.

To date, the regulation of aircraft noise pollution has been the sole responsibility of the Federal Aviation Administration. The Federal Aviation Administration has had this responsibility since

The FAA has determined that the request to remove the noise "floor" of 80 EPNdB from the regulatory language is reasonable and should be granted. This noise floor, not being currently achievable, could have no immediate legal effect.

The attitude of the Federal Aviation Administration as regards regulation of aircraft noise was more clearly spelled out in the following excerpt from a draft report on noise pollution prepared by the Environment Protection Agency:

Both directly and by unmistakable inference, a number of important conclusions arise from the information gathered on Federal noise control programs.

Most plainly, the control of unwanted sound is not a high priority issue for virtually any Federal agency or department. Only when an Agency's primary mission absolutely requires a commitment of time, manpower and funding to noise control to assume the smooth functioning of that primary mission (as with for instance, FAA and NASA) is even a modest venture into noise suppression undertaken. For the FAA, aircraft noise is only an annoying interference in the basic goal of the Agency: the most efficient, safest and swiftest air travel possible.

While this statement was deleted from the final report transmitted to the Congress, it is indicative of FAA's attitude toward noise from aircraft. Unfortunately, the bill, as reported, would continue the dominance of the FAA. Not only would FAA have veto over safety of noise reduction technology, but neither could EPA make any judgment as to the availability of technology or the cost of achieving noise reductions without FAA approval.

Continuation of the Federal Aviation Administration in a role of determining engine emission control technology was available. Without an action-forcing mechanism such as enforceable "cumulative noise exposure levels," neither FAA nor the airlines would have any incentive to press technology and achieve the goals EPA would be authorized to establish. A combination of cumulative noise levels and emission standards would create that pressure. Obviously if technology exists to achieve the levels of noise emission reduction to protect public health, achievement of emission standards would reduce any economic burdens on the airline industry caused by controls imposed to achieve cumulative noise levels. And such local environmental noise requirements would require a reduction in the number and frequency of flights if technology did not exist.

The committee considered and rejected a provision which would have required the Administrator of the Environmental Protection Agency to identify any airports in the country with aircraft noise problems of a magnitude to cause a violation of cumulative noise exposure levels. The proposal defined "cumulative noise exposure levels" as those levels of noise in the environments of airports associated with aircraft operations which were adversely affecting the health and welfare of people around airports.

Most importantly, this provision would have imposed a positive burden upon the operator of the airport to exercise responsibility to regulate the number, the frequency and the hours of flight or to impose land use and other controls so as to eliminate noise as an environmental problem in the area of that airport. And

its inception. It has had a specific legislative mandate for the past 4 years. And its record is wholly inadequate.

I understand why the Federal Aviation Administration's response has been inadequate. The FAA's primary mission is not to reduce the environmental impact caused by aircraft noise. Its mission is to promote air commerce and to protect safety. Regulation of noise from aircraft is not consistent with that primary mission.

In the proposed rulemaking in January 1969, FAA set forth a "noise floor" at 80 EPNdB as "an objective to aim for, and to achieve where economically reasonable, technologically practicable, and appropriate to the particular design" and went on:

> However, this objective is important because it makes it clear to all applicants that no increment of noise above 80 EPNdB can be considered acceptable, in and of itself, where it can be eliminated practically and reasonably. This figure is proposed as a reasonable boundary between noise levels that are high enough to interfere with communications and to obstruct normal life in homes or other buildings that are not designed with specific acoustical objectives, and lower noise levels which, while not completely benign, nevertheless allow those activities to proceed. Where this goal can be reached in a given case, and can be justified as economically reasonable, technologically practical, and appropriate to the particular type design, the FAA does not intend to ignore this potential reduction.

Yet after industry pressure, the FAA dropped this 80 EPNdB "objective" from the promulgated regulations stating:

the degree to which noise emissions from aircraft will be reduced is not justified in the record. While the committee bill takes steps to establish the Administrator of the Environmental Protection Agency as the determinator of those levels of aircraft noise required to protect public health and welfare, EPA will have little authority to enforce standards to meet those requirements.

Members of the committee, including myself, recognized that aircraft were unique because of the safety requirements and the interrelationship of safety to the engine system. Therefore, I agreed with the committee's judgment and supported the amendments of Senator COOPER and Senator STAFFORD which would retain the Federal Aviation Administration lead role in making any final determination as to whether or not any technology available to achieve noise emission levels would also be consistent with the highest standards of safety.

The assumption that technology might not be available to meet noise emission goals combined with the assumption that technology could be vetoed because of FAA safety judgment, lead to the conclusion that there must be a mechanism to assure maximum pressure to develop safe technology while at the same time reduce the impact of noise in the environments of impacted airports.

The committee considered and rejected a provision that would have required achievement of health and welfare protection of noise levels in airport environments, whether or not specific aircraft the airport operator's duty and responsibility to carry out such responsibilities would be established by statute.

This concept is not unique. In 1970, the Congress enacted legislation which requires development of a clean car by 1975. That law recognized that reliance on technology alone would not result in elimination of auto-related pollution as a health hazard until existing vehicles were off the road—perhaps mid-1985 or later. Therefore, the bill established a procedure to regulate the use of automobiles in areas in which automobile-related air pollution was unacceptably high to assure that public health would be protected at an early date—in this instance, 1975–76.

The combination of emission reduction technology and air quality implementation plans has been a useful mechanism both to improve air quality and to apply pressure on local governments to seek alternatives to reliance on motor vehicles. Also, this mechanism will apply pressure to the auto industry to develop clean cars if they wish to preserve existing markets.

This mechanism can and should be applied to aircraft-related noise problems. It recognizes the limitations of technology, while providing a means to protect the health and welfare of those seven and a quarter million people who live in airport environments and who are adversely affected by aircraft noise. To do anything less in this legislation is to fail to meet responsibly the demands of the

American public for a safe, healthful and peaceful environment.

Without a provision of this type, I believe the bill to be inadequate. Without a provision of this type, the bill does not address in a meaningful way the real problem faced by people who are confronted now with unacceptable levels of aircraft noise. The reported bill would force these people to wait for emission control technology to be developed and applied to new and existing aircraft, or on the courts to impose sufficient penalties or damage claims against the airlines and the airport operators for creating a public nuisance before relief will be achieved. To turn over to the courts the responsibility of making ad hoc decisions to solve environmental noise problems is equally unacceptable. I think it is inadequate to rely on claims for damages, penalties against the airlines, and injunctions as a substitute for positive regulatory programs.

Mr. President, I think it is inadequate to enact a Federal law which ignores the most basic and most significant problem of noise as perceived by people.

These are the major flaws in this legislation as I see it, Mr. President. Even as our environment becomes noisier and noisier, as the physiological, psychological, and property costs of that noise rise higher and higher, and as we develop more and more techniques for reducing that noise, we are not responding adequately to our task.

We must protect the public health. The amendments which I and other Senators will propose will not create unreasonable restrictions on potential transportation system regulations in the airport and its vicinity, and other noise-related control efforts.

These controls are immediately more important than aircraft engine controls if airport noise problems are to be reduced. But nowhere in the legislation before us is a mechanism established to determine specific levels of airport noise which will protect public health and welfare, to monitor noise levels around airports, to give advice to airport operators on various approaches they can take to deal with the other aspects of airport noise problems, or to provide technical assistance to airport operators which they may need in implementing such controls. Nor does the bill assure airport operators that interim measures can be taken locally to reduce airport noise and thus the myriad of damage actions pending and anticipated.

All that S. 3342 does, in section 502, is call for a study of these matters. This is not enough. Today we are told we are enacting legislation to deal with the aircraft noise problem, not to study those problems but to have a real commitment of Federal action. If that is so, then we must include a real Federal commitment to act against airport noise.

The amendment I propose will require that within 180 days after enactment of this act, EPA publish regulations establishing levels of cumulative noise exposure for airports and surrounding areas which are adequate to protect public health and welfare with an adequate margin of safety.

Ninety days after publication of these regulations, EPA will be required to publish regulations to solve their airport noise problems. Recently, the FAA has taken the position that airports cannot restrict aircraft operations in order to reduce noise. Thus, under FAA interpretation, aircraft operators must bear the burden of noise damage suits without authority to solve local problems and defend themselves against such suits.

I ask unanimous consent that there be included in the RECORD at this point a complaint filed by the FAA against the town of Morristown, N.J., charging Morristown had violated Federal law and grant agreements by restricting aircraft operations because of noise.

There being no objection, the complaint was ordered to be printed in the RECORD, as follows:

[In the U.S. District Court for the District of New Jersey]

UNITED STATES AGAINST MORRISTOWN, N.J.

(United States of America, plaintiff, v. the town of Morristown, a municipal corporation of the State of New Jersey; the Morristown Airport Commission; the township of Hanover, a municipal corporation of the State of New Jersey; the township of Morris, a municipal corporation of the State of New Jersey; the borough of Florham Park, a municipal corporation of the State of New Jersey; A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty, Norman S. Weinberger, all residents of Morris County, State of New Jersey; defendants.)

COMPLAINT

The United States, by the undersigned attorneys complaining of defendants, hereby alleges as follows:

1. This court has jurisdiction of the action pursuant to 28 U.S.C. § 1345, § 1331 and § 1337. The action arises under the Federal

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sources of noise, and they will give this legislation the quality of effective environmental regulation. They will improve our ability to protect the health and welfare of the people of our land. I urge that the Senate support these vital improvements.

Mr. President, the two amendments I offer today would get at these points I have just raised. The amendment just reported is designed to determine levels of airport noise which affect public health and welfare and to establish procedures to identify and monitor activities at airports where levels of excessive environmental noise exist. In recent years the primary impetus to develop Federal noise controls has been citizen concern with excessive noise levels in the vicinity of airports. Excessive airport noise may be reduced someday, in part, by controls on aircraft and aircraft engines which are dealt with in other sections of this bill.

But simply modifying aircraft and aircraft engines will not alone solve what has become known as the airport noise problem—at least not soon enough to help 7 million citizens who face unacceptable noise levels every day of their lives.

To solve the airport noise problem, other programs integrated with aircraft controls are necessary. Effective programs will include curfews, controls over operation or aircraft at and around airports, limitations on the number of airport operations per hours, land use, zoning, building construction and ground lish standards for measurements of levels of cumulative noise exposure.

Within 9 months after measurement regulations are published—about 18 months after enactment of the law—EPA would be required to identify those airports in the vicinity of which unacceptable levels of cumulative noise exposure exist. EPA would be required to install at those airports devices to monitor, on a continuing basis, levels of noise exposure and make available to the public data which resulted from EPA monitoring activities. This process would establish a single uniform basis for examining cumulative noise levels and determining just what airport noise levels and what airport activities result in levels of noise harmful to public health or welfare.

To aid the airports in reducing levels of cumulative noise exposure, the Administrator of the Federal Aviation Administration, whom we all agree has the greatest experience in airport operations and safety, is directed to develop and publish guidelines with suggested alternatives for reducing airport noise and to provide technical assistance to airports in solving their noise problems.

Finally, my amendment would establish a clear, statutory recognition of the duty and responsibility of airport operators to take necessary action to reduce airport noise as determined necessary to prevent damage actions and protect health and welfare. I am particularly concerned that this legislation clarify the role of the FAA in working with airports

Aviation Act, 49 U.S.C. § 1101 *et seq.* The value of the matter in controversy exceeds $10,000.

2. Plaintiff is the United States of America. The Federal Aviation Administration (FAA) is an agency of the United States.

3. The defendants, Town of Morristown, Township of Hanover, Township of Morris and Borough of Florham Park are municipal corporations in the State of New Jersey. The Town of Morristown and the Morristown Airport Commission are the defendants in a suit styled *Township of Hanover, et al.* v. *Town of Morristown, et al.*, Docket No. C3172-68, Superior Court of New Jersey, Chancery Division, Morris County (108 N.J. Super. 461, Ch. Div.) in which judgment of Judge Joseph H. Stamler was entered on 23 March 1970. The Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman S. Weinberger, are the plaintiffs in said suit. The individual defendants are residents of the County of Morris, State of New Jersey within this judicial district.

4. The Town of Morristown is the owner of Morristown Municipal Airport, a public airport located in Morristown, New Jersey. Operational control of the airport is in the Morristown Airport Commission which reports directly to the Mayor and the Board of Alderman of Morristown.

5. Aircraft operations to and from Morristown Municipal Airport include operations which are in inter-state commerce.

6. On 24 June 1969, the Town of Morristown entered into a written agreement with the Federal Aviation Administration on behalf of the United States, for a federal-aid airport project designated as Project No. 9-28-007-0904, under which the United States

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agreed to participate to the extent of $1,259,818.00 in the cost of certain airport development at Morristown Municipal Airport. The airport development in the project consists of:

Land acquisition, consisting of Parcels 23, 25, 27, 28, 29, 30, 31, 36, 37, 38, 39, 40, 41, and 42; resurface and mark existing Runway 5–23 (4000' x 150') and two connecting taxiways; extend, light (H.I.) and mark Runway 5–23 (2000' x 150') to 6000'; construct, mark, and light taxiway parallel to Runway 5–23 (4300' x 60') from Runway 12–30 to north end of Runway 5–23, with associated drainage; install taxiway guidance signs.

7. The FAA approval of the project was consistent with the current National Airport Plan compiled pursuant to 49 U.S.C. 1102 which recognized the need for the extension of runway 5–23 and the other development to accommodate the aeronautical needs of the users of the airport.

8. Under the terms of the aforesaid grant agreement, the Town of Morristown agreed to operate Morristown Municipal Airport for the use and benefit of the public and agreed it would keep the airport open to all types, kinds and classes of aeronautic use without discrimination between such types, kinds and classes. The Town of Morristown further agreed that it would operate and maintain in a safe and serviceable condition the airport and all facilities thereon, connected therewith which are necessary to serve the aeronautical users of the airport and that it would not permit any activity thereon which would interfere with its use for airport purposes.

9. The extension of runway 5–23 included in Project No. 9–23–007–0904 has been satistorily completed; the other development in the project is substantially complete.

10. On or about July 24, 1969, the defendants herein, the Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, John E. Flahety

14. The Federal Aviation Administration has either disbursed or put under grant agreement the sum of $1,938,272.00 for participation in the development of Morristown Municipal Airport under authority of the Federal Airport Act (49 U.S.C. 1101 *et seq.*) The FAA has also allocated an additional sum of $1,032,451.00 for further participation in the development of Morristown Municipal Airport under authority of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 *et seq.*), successor to the Federal Airport Act.

15. The defendants, Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman S. Weinberger, by commencing and continuing to maintain Civil Action No. C 3173–68 in the Superior Court, Chancery Division, Morris County, New Jersey, have caused and continued to cause the defendant, the Town of Morristown to breach and fail to fulfill its obligations and agreement to and with the United States under the grant agreement.

16. The defendants, Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman S. Weinberger, by commencing and continuing to maintain Civil Action No. C 3172–68 in the Superior Court, Chancery Division, Morris County, New Jersey, have caused nad continue to cause jet air traffic in interstate commerce to cease using navigable airspace during certain hours for landings and take-offs at Morristown Municipal Airport; and would purport to control the use of navigable airspace further by restricting the use of the runways under certain wind conditions and criteria which are in conflict with those implemented by the Federal Aviation Administration. The aforesaid defendants are without power to regulate, control or disrupt restrictions imposed against the landings and take-offs of jet aircraft under paragraphs C and I and further order all parties to waive the 20 day notice provided in the judgment of Judge Stamler and demanding expedited consideration of the joint motion to vacate.

Mr. MUSKIE. Mr. President, I also ask unanimous consent that the judgment of the lower court in this matter be included in the RECORD.

There being no objection, the judgment was ordered to be printed in the RECORD, as follows:

[Superior Court of New Jersey, Chancery Division, Morris County, Docket No. C 3172-68]

(Township of Hanover &c., et al, Plaintiffs; vs. town of Morristown &c., et al; Defendants)

JUDGMENT

This matter having come before the Court in the presence of counsel, Harry L. Sears, Esquire and John M. Mills, Esquire appearing on behalf of the plaintiffs, and Edward F. Broderick, Jr., Esquire appearing on behalf of the defendants, and the Court having heard the representations of counsel and various technical consultants retained by the parties herein, and good cause being shown,

It is on the 23rd day of March, 1970, ordered that Judgment be entered in this case as follows:

A. The Court having determined that the extension and resurfacing of Runway 5–23 at the Morristown Airport will create an additional measure of safety and will produce some attenuation of noise in take-offs and landings, the extension of Runway 5–23 and the increase of weight bearing capacity of both runways will be permitted;

B. Having determined that the remaining phases of the General Airport and Layout Plans provide additional measures of safety and noise attenuation, the other provisions

and Norman S. Weinberger filed a complaint against the defendants, the Town of Morristown and the Morristown Airport Commission, in the Superior Court of New Jersey, Chancery Division, Morris County, Docket No. C 3172–68 and, after trial, the court rendered its opinion which is reported in 108 N.J. Super 461 (Ch. Div. 1969). On March 23, 1970, a judgment was entered (Exhibit A) which among other things, (1) provides under paragraph C thereof, that runway 5–23 shall be used as the preferential runway by all jet aircraft landing at and taking off from Morristown Municipal Airport except when the crosswind component on runway 5–23 is in excess of twenty knots and under certain other specified exceptions; and (2) under paragraph I thereof, prohibits jet aircraft take-offs from and landings at the airport each day between the hours of 9:00 p.m. and 7:00 a.m. and on Sundays, except during the hours of 1:00 until 3:00 p.m.

11. As a result of the aforesaid judgment the defendants, Town of Morristown and Morristown Airport Commission, have closed the airport to take-offs and landings by jet aircraft during the hours prescribed in the judgment of Judge Stamler.

12. Prior to the imposition of the restrictions aforesaid, jet aircraft engaged in interstate commerce had used Morristown Municipal Airport for landings and take-offs during the weekdays between 9:00 p.m. and 7:00 a.m. and on Sundays during the hours from 3:01 p.m. to 12:59 p.m.

13. Effective November 9, 1970, in accordance with its authority under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(c) and 1431), the Federal Aviation Administration implemented a Noise Abatement Runway System at Morristown Municipal Airport, the standards and conditions of which differ from the conflict with those imposed by Judge Stamler in paragraph C of his Judgment (Exhibit A).

in any manner the use of navigable airspace.

17. The plaintiff has no adequate remedy at law.

Wherefore, Plaintiff prays:

A. For a permanent injunction restraining the defendant Town of Morristown from failing to perform its obligations and duties under the grant agreement with the United States;

B. For a permanent injunction restraining the defendants, Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman S. Weinberger from interfering with compliance by the Town of Morristown with its obligations and duties under its agreement with the United States by continued maintenance of the suit styled *Township of Hanover, et al.* v. *Town of Morristown, et al.*, Docket No. C 3172–68, Superior Court, Chancery Division, Morris County, New Jersey or in any other manner.

C. For a permanent injunction restraining the defendants, Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman E. Weinberger from interfering with the use by jet aircraft of navigable airspace for landing at and taking off from Morristown Municipal Airport by continued maintenance of the suit styled *Township of Hanover, et al.* v. *Town of Morristown, et al.*, Docket No. C 3172–68, Superior, Court, Chancery Division Morris County New Jersey or in any other manner.

D. For an order compelling all defendants herein to file a joint motion in the case styled *Township of Hanover, et al.*, v. *Town of Morristown, et al.*, Docket No. C 3172–68, Superior Court, Chancery Division, Morris County, New Jersey, demanding the Superior Court, New Jersey modify the judgment of Judge Stamler by deleting therefrom the

of the General Airport Plan and Layout including taxi-ways, I.L.S. System, lighting, et seq. will be permitted;

C. Having determined from the evidence that the wind rose patterns at the Morristown Airport indicate that the prevailing winds favor the utilization of Runway 5–23 approximately ninety percent of the time, it is directed that after the completion of the extension of said runway, that the preferential runway at Morristown shall be 5–23. This runway shall be utilized as the preferential one by all jet aircraft landing and taking off at Morristown, except as follows:

(1) When the cross wind component on 5–23 is found to be in excess of twenty (20) knots;

(2) When an emergency landing or take-off situation exists;

(3) When the use of Runway 12–30 shall be requested and or directed by the Airport Tower personnel in the interests of flight safety. Furthermore, such preferential runway program when initiated, shall be under the direction and guidance of F.A.A. control tower personnel and enforced by the management of Morristown Airport.

D. The noise abatement procedures promulgated by the management of Morristown Airport from time to time shall be enforced by the management of the Airport and copies of any changes in the established noise abatement proceduers shall be mailed within a reasonable period of time to the municipal clerks of those municipalities that immediately abut the Airport premises.

E. So that residents in the vicinity of the Airport may assert complaints based on detailed information, the management of the Morristown Airport will arrange to obtain information regarding movements at the Airport which are recorded on tapes at the airport tower, which tapes transcribe data received by the tower personnel of the aircraft in traffic patterns, as well as from

ground control, and which tapes are kept for a period of fifteen (15) days and contain information regarding each take-off, landing, aircraft, number, runway used, wind direction and force, altimeter setting, time of take-off or landing. The Airport Manager will monitor these tapes upon a request from a complainant and shall make available to any complainant any information so recorded which is needed to assist the complainant in the making of the complaint. Additionally, the airport management will keep records of the movements of itinerant aircraft at the Airport in order to assist any person seeking to make a complaint in obtaining any necessary information.

F. Additionally, the airport management will arrange to provide for a telephone service to be installed at the Airport to record the incoming calls of any complainants who wish to call the Airport after hours or who are otherwise desirous of calling the Airport after hours or who are otherwise desirous of calling the complaint number in response to such a listing in the local telephone directories. The airport management will follow up in response to said complaints and establish procedures for the mailing of data forms to all persons seeking to make a complaint. Upon receipt of these written complaints and the data forms requested, records shall be maintained at the Management or Operations Office of the Airport for public inspection during business hours of all complaints received, and such records shall note the action taken thereon by the airport management or the F.A.A. or both, as the case may require.

G. There shall be required at the Airport noise suppression devices and noise attenuation equipment or engine "test calls" which are to be installed and used for jet engine maintenance and testing and run-up.

H. Portable shields or sound baffeling devices similar to those described in the stipulation of facts submitted by the parties shall provisions of Paragraphs C through I, and the Court in the exercise of its discretion, shall permit the taking of testimony or additional evidence related to the implementation of this Judgment, as it may effect, now or in the future, the legitimate interests of the parties.

Mr. MUSKIE. Mr. President, that judgment requires the airport to undertake certain procedures for handling complaints and orders the adoption of certain noise abatement procedures.

If it is indeed a position of the FAA, as indicated in its complaint, that airports should not be allowed to control aircraft operations to reduce noise, then it is essential that the FAA assist those airports to reduce their noise exposure to levels which are not harmful to the public health. Either Federal law must provide a clear method for airport operators to solve their problems, or the Federal Government must be held liable for damage action brought against those airports.

May I review the provisions of this amendment: First, the EPA would set levels of cumulative noise exposure which are unhealthy in terms of public health and welfare; secondly, it would set standards for measuring those noise levels; third, it would identify those airports in the country which exceed those levels.

That is the extent of the authority of EPA under this amendment.

Then FAA, the agency which the opponents of this amendment I take it, argue is the agency which ought to control aircraft operations, is charged under this amendment with the responsibility of issuing guidelines to airport operators

Mr. TUNNEY. Mr. President, I was saying that I shall have to oppose this amendment. This matter was considered at great length in the committee, and I personally spent a great deal of time on it. I wanted to see something done in this area. It seemed to me that, if we were going to have a noise bill, we really should try to develop a scheme whereby we can control cumulative noise levels around airports.

The bill went through a number of prints in which we tried to revise the language so as to meet the health need but also to various objections. As we got deeper and deeper into it in the mark-up session, we realized that we just did not have adequate data on which to base a rational judgment as to the best mechanism to do the job. It was the considered opinion of the committee that, instead of trying to push through a scheme at a very late date, without sufficient evidence as to its precise ramifications, what we should provide is a 1-year study which will certainly keep the heat on and will require the Environmental Protection Agency to come to the Congress and make proposals which I feel are needed if we are going to be able to reduce airport noise.

But there are more than a dozen different systems for monitoring airport noise; and when you are dealing with airport noise, you are dealing not only with aircraft, but with railroads that go past airports, and with highways. National Airport is a good example of what I mean. The question is how do you differentiate between aircraft noise, high-

be used at such places and locations on the airport premises as in the opinion of the management they will best reduce hazards to safety and will be most effective, subject however to the requirements of the F.A.A. as to proper clearance at the end of each runway.

I. Oral argument having been heard from counsel and a proffer of proof having been made by counsel for defendants on the subject of restricting jet aircraft at Morristown Airport during certain hours and good cause being shown therefore, the Court directs that jet aircraft will be prohibited from take-offs or landings each day between the hours of 9:00 P.M. until 7:00 A.M. and on Sundays, except during the hours of 1:00 P.M. until 3:00 P.M., unless an emergency exists, or the interests of flight safety require the utilization of the airport under the guidance and direction of the F.A.A. tower personnel.

J. The provisions of Paragraph C herein shall be implemented upon the completion of the Runway (5–23) extension and improvements referred to in Paragraphs A and B herein, as shall the procedures with reference to noise abatement outlined in Paragraph D herein. Additionally, the Airport management shall have installed portable shields and sound baffling devices contemplated in Paragraph H herein by such time as the improvements and the runway extension have been completed. All other requirements of this Judgment shall become effective immediately upon the filing thereof.

The Court expressly retains jurisdiction of all issues herein. Although binding on all parties, and except as to Paragraphs A and B herein, this Judgment is experimental in nature. Subsequent to the entry of Judgment herein, either party or parties effected by the entry of said Judgment may, upon twenty days notice to the parties of record, move before this Court for a change in, a modification of, or relief from any of the

and providing technical assistance so that they may safely meet their environmental responsibilities of controlling noise levels. I think FAA has that responsibility. But it is the aircraft operators themselves, who are subject to damage suits. Many of them are now in court for this purpose, because they violate public health and welfare levels of noise emissions.

I think this is a minimal kind of mechanism to deal with this problem.

The study provided in the bill is not sufficient. It mandates nothing.

This amendment proposal gives FAA the authority necessary to establish health and welfare standards. It gives FAA power to veto it, in effect, as well as the responsibility to issue guidelines to meet those standards.

I reserve the remainder of my time on the amendment.

Mr. TUNNEY. Mr. President, I must oppose this amendment, on behalf of myself and the committee. The committee took this matter up at quite some length——

Mr. MUSKIE. Mr. President, will the Senator yield for a moment so I may make a request to have certain staff members on the floor?

Mr. TUNNEY. I yield.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Tom Gallagher of Senator TUNNEY's staff, and Len Bickwit, and Lee Tyner, of Senator HART's staff, may be permitted on the floor during the debate on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

way noise, and train noise?

This issue is something which really should be considered in a study, so that the committee has all the facts available to it before it rushes blindly into a regulatory scheme that may or may not be appropriate.

I would like to read from the committee report on this point. It states:

The Committee considered approaches to controlling aircraft noise based on a concept of cumulative noise exposure, involving the level of noise from aircraft to which individuals in the areas surrounding airports are exposed and the effects of such exposure on public health and welfare. While methods other than noise emission standards can be effectively utilized to reduce aircraft noise, the Committee felt that it had insufficient knowledge as to the precise regulatory mechanism for cumulative aircraft noise exposure. Therefore, the Committee included in the bill, in place of any regulatory scheme dealing with community noise around airports, a one year study by the EPA of the implications of identifying and achieving levels of cumulative noise exposures around airports. The results of this study, submitted to the Committees on Public Works and Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House with legislative recommendations, will form the basis for any legislation on aircraft noise in the next Congress.

Also included in this study are the adequacy of FAA flight and operational noise controls, the adequacy of noise emission standards on new and existing standards on new and existing aircraft (together with the Environmental Protection Agency's recommendations on the retrofitting and phaseout of existing aircraft), and any additional measures available to airport operators and local governments to control aircraft noise.

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In the context of the development of this legislation, inquiries were sent by one member of the committee to manufacturers, airlines, trade organizations, government agencies, and independent consultants concerning the possibility of mandating retrofit and phase-out requirements. (See appendix for text of letter and replies.)

Tools other than noise emission standards do exist for reducing aircraft noise. It is the intention of the Committee in section 501(c) of the bill that all existing authority over aircraft or aircraft noise be utilized to reduce that noise, including, among other things, the consideration of flight and operational changes such as the two-segment landing approach and the adjustment of take-off, approach and flight paths to impact fewer people, and review of traffic flow with regard to adequacy of load factor.

It seems to me, Mr. President, that in this bill we have done just about all we could at this point in time. I was deeply concerned in the committee, as the debate progressed, that no one really understood what the effect of the mechanism that was put into the bill would be. That mechanism called for a conference to be held at a noise-impacted airport at which the airport operator, the FAA, the CAB, EPA, local authorities, and the interested public would discuss ways of cutting down on airport noise.

At this airport conference various measures to reduce noise, including the adequacy of noise-emission standards for aircraft, and operational and flight procedures, would be taken into consideration. Also considered would be the possibility of scheduling changes, curfews, use of preferential runways, substitution of quieter aircraft, and, finally, as a last resort, controls on land use.

hearings on it and we do not really understand the full significance of it. I do appreciate the objective and the goal of the distinguished Senator from Maine, the chairman of our subcommittee, and I take this opportunity, as always, to compliment him on the outstanding work he has done as chairman of our Subcommittee on Air, and Water Pollution. His contributions are most valuable and immeasurable. However on this issue I find myself in disagreement.

Another point that has not been mentioned, which I do think is important at this time, because it is important to move forward with this noise pollution control legislation, is that I believe if the amendment were adopted at this time, at this late point in the session, it would probably complicate forward movement and complicate the chances of getting this bill enacted at this session, because it would undoubtedly involve committee jurisdictional problems, which have not been completely worked out.

Mr. President, I recommend that this amendment be rejected at this time. I think the Senator for yielding.

Mr. TUNNEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. TUNNEY. I would like to yield to the Senator from Nevada.

Mr. MUSKIE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Maine has 18 minutes.

Mr. MUSKIE. I yield myself 5 minutes to cover the points raised by the Senator from Delaware.

prescribed pursuant to this section prior to the date of enactment of the Noise Pollution Control Act of 1972 shall remain in effect until amended or revoked by subsequent standards, rules, or regulations prescribed and approved pursuant to this section.

"(b) The Administrator of the Federal Aviation Administration shall not issue a type certificate under section 603(a) of this Act for any aircraft, or for any aircraft engine, propeller, or appliance that affects significantly the noise or sonic boom characteristics of any aircraft, unless the Administrator of the Environmental Protection Agency shall have prescribed standards, rules, and regulations under this section which apply to such aircraft, aircraft engine, propeller or appliance, and which protect the public health and welfare from aircraft noise or sonic boom consistent with the considerations listed in subsection (d) of this subsection.

"(c) The Administrator of the Environmental Protection Agency, within 6 months of the date of enactment of the Noise Pollution Control Act of 1972, shall review all standards, rules, or regulations (or any proposed standard, rule, or regulation) in effect under this section prior to the date of enactment of the Noise Pollution Control Act of 1972. If he determines after public hearings, that such standards, rules, or regulations do not protect the public health and welfare from aircraft noise or sonic boom consistent with the considerations listed in subsection (d) of this section, he shall within 12 months of the date of enactment of this Act, revise such standard, rule, or regulation.

"(d)(1) In prescribing and amending standards, rules, and regulations under this section, the Administrator of the Environmental Protection Agency shall—

"(A) consider relevant available data relating to aircraft noise and sonic boom and the noise environments of airports, including the results of research, development, testing,

But, as we got into the matter, it became very clear that we just did not have nearly enough information to be able to have this mechanism written into the law with a sufficient anticipation of all the possible consequences. Rather than be accused of legislating in the blind, we decided to have a study by EPA and to have the matter brought up again in Congress when we could have full hearings on this specific point.

In its present form, this amendment has not been considered by the Committee on Public Works. For this reason, I would have to say that, no matter how good this amendment may be or may not be, because of its complex nature and because perhaps no one really understands what it says except the Senator from Maine, it is objectionable, and the Senate ought to reject the amendment.

Mr. BOGGS. Mr. President, I would like to take a minute or two to agree with the statement that the manager of the bill, the distinguished Senator from California (Mr. TUNNEY), has just made in regard to the pending amendment.

I am free to say, and I say at the request of our colleague on the committee, the distinguished Senator from Kentucky (Mr. COOPER), who is unable to be here at the moment because he is in a conference on the highway bill, that he also supports the committee position. He has asked me to relay that point of view.

It seems to me, as the distinguished Senator from California has said, that this amendment has not been fully considered in committee. We have not had

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, I think it would be interesting to include, and ask unanimous consent to have printed in the RECORD at this point, the provision in the original bill which covered this subject.

I think, second, there ought to be included, and I ask unanimous consent to have printed in the RECORD, the modification of that provision which was developed as the result of the committee hearings and pressed by Senator TUNNEY and myself in the committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIRCRAFT NOISE STANDARDS

SEC. 3. Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) is amended to read as follows:

"CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 611. (a) In order to afford present and future relief and provide protection to public health and welfare from aircraft noise and sonic boom, the Administrator of the Environmental Protection Agency, after consultation with the Secretary of Transportation, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such rules and regulations as he may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards, rules, and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. All standards, rules, and regulations and evaluation activities conducted pursuand to this Act and the Department of Transportation Act;

"(B) consult with such Federal, State, interstate, and municipal agencies as he deems appropriate;

"(C) consider whether any proposed standard, rule, or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

"(D) consider whether any proposed standard, rule, or regulation is technologically practicable for application to existing types of aircraft, aircraft engine, appliance, or certificate to which it will apply.

"(2) Aircraft, aircraft engines, or appliances which are manufactured or sold after date of enactment of the Noise Pollution Control Act of 1972 shall meet the standards prescribed pursuant to this section.

"(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards, rules, or regulations applied to aircraft or aircraft engines existing on the date of enactment of the Noise Pollution Control Act of 1972, is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation such standards, rules, or regulations, and that such amendment, modification, or revocation is consistent with safety in air transportation."

"SEC. 502. (a) In order to attain and maintain the ambient levels of noise for airport environments and surrounding areas established under section 501(a)(1) of this Act, the operator of any airport where such ambient levels are not presently attained shall develop and adopt a plan for the achievement and maintenance of such ambient levels,

after public hearings and consultation with the Secretary of Transportation and any affected State or political subdivision thereof. Such plan may consider reductions in noise emissions due to standards applicable to particular types of aircraft, controls on the granting or acceptance of air service, controls on the frequency and scheduling of flights, modifications of hours of airport operation, changes in operational and flight procedures, and land use regulation. The operator of any other airport, or any State or political subdivision thereof affected by aircraft noise, may develop and adopt such a plan with respect to an airport not covered by a plan developed under the first sentence of this subsection.

"(b)(1) Any plan required by subsection (a) of this section, shall be submitted to the Administrator of the Environmental Protection Agency and the Secretary of Transportation, within one hundred and eighty days after the promulgation of regulations establishing ambient levels of noise for airport environments and surrounding areas pursuant to section 501(a)(1) of this Act.

"(2) Within ninety days after such submission, the Secretary of Transportation shall transmit to the Administrator his determination as to the consistency of such plan with air safety and air commerce, together with his recommendation for approval or modification of such plan.

"The Administrator shall review such plan to assure attainment of maintenance of such ambient levels of noise established under section 501(a)(1) of this Act and, in accordance with the recommendation of the Secretary of Transportation, shall approve or modify such plan within sixty days after such transmittal.

"(c) Where the implementation of an approved plan under this section requires the promulgation or modification of any regulations under the authority of the Secretary of Transportation or the Civil Aeronautics Board, such regulations shall be promulgated or modified within ninety days after the ap-

CITY OF INGLEWOOD, CALIFORNIA,
Inglewood, Calif., March 24, 1972.

Senator EDMUND S. MUSKIE,
Chairman, Subcommittee on Air and Water Pollution, U.S. Senate Public Works Committee, Washington, D.C.

Subject: Noise Pollution Hearings, San Francisco, California, March 24, 1972

DEAR MR. MUSKIE: I hope to convince your Committee that:

1. Aircraft noise pollution is excessive, is detrimental to the public welfare, and needs to be reduced.

2. Aircraft noise pollution *can* be reduced dramatically if the federal government uses its authority to set aircraft and airport noise standards.

The residents of Inglewood send you their quiet prayers. They hope that you understand fully the gravity of the work you are presently doing. Your efforts in controlling noise mean much more than just making life a little more pleasant; they may mean life or death to our city.

Inglewood has 90,000 residents. Most of them live under or near the landing approach corridors to Los Angeles International Airport. Most of the homes were built long before Los Angeles became a major airport. Today the lives and homes of these people are being destroyed by noise.

The Inglewood city government has become deeply involved in protecting its citizens from locally generated sources of noise pollution. We have also strongly supported all measures which promise meaningful relief from aircraft noise.

Just to show the extent of our involvement in the aircraft noise problem, to our knowledge Inglewood is the only city in the world which has an airport noise monitoring system even though it does not own an airport. Our system consists of four permanently located stations on telephone poles under the flight paths and one mobile station which can make sound recordings anywhere in the noise not only hurts our citizens physically, psychologically, and emotionally, but also economically. Attachment 2 summarizes in somewhat more detail the results of this correlation study.

Knowledge of the harm being caused by noise would be of little value if there were no way to stop it. But there are many steps which can be taken to significantly alleviate jet noise pollution. The City of Inglewood is taking those steps which are within its authority such as enforcement of our noise ordinance, land use planning, and residential soundproofing. A draft ordinance requiring soundproofing in future residential construction is included as Attachment 3 and is currently under consideration by the Inglewood City Council.

If the federal government would shoulder its share of the responsibility for aircraft noise abatement, the noise environment in Inglewood could improve significantly in the future. Attachment 4 shows the improvement that could be achieved over time: a 75% reduction in noise exposure over the next 15 years. Compatibility between airports and communities could be established by 1985. This could be accomplished through a comprehensive planning approach to noise abatement which would include engine noise reduction, procedural changes for noise abatement, flight schedule reductions, and nighttime curfews designed to increase airline efficiency and decrease total noise pollution. NASA research programs have already shown the feasibility of engine retrofit for noise abatement. A few airlines such as PSA and National have implemented steep approach procedures which reduce landing noise at least 10 PndB. The state of California has adopted airport noise standards which use the comprehensive noise exposure methodology.

The stumbling block to progress has been the FAA. They have consistently denied responsibility for noise in airport environ-

proval of such plan under subsection (b) of this section.

Mr. TUNNEY. Will the Senator permit a correction? It was in print 6; the sixth edition.

Mr. MUSKIE. I thank the Senator.

Let me say, Mr. President, there was much discussion in the committee of this issue about the desirability of having this kind of control at the local level.

I ask unanimous consent to have printed in the RECORD a letter that is in the record of the hearings of the committee from Randall L. Hurlburt, of the city of Inglewood, Calif., addressed to me, dated March 24, 1972, in which he said:

DEAR MR. MUSKIE: I hope to convince your Committee that:

1. Aircraft noise pollution is excessive, is detrimental to the public welfare, and needs to be reduced.

2. Aircraft noise pollution can be reduced dramatically if the federal government uses its authority to set aircraft and airport noise standards.

The residents of Inglewood send you their quiet prayers. They hope that you understand fully the gravity of the work you are presently doing. Your efforts in controlling noise mean much more than just making life a little more pleasant; they may mean life or death to our city.

I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

city. We have invested more than $50,000 in noise measuring equipment. We are determined that noise will not escalate above present levels, and we will make every effort to assure that noise is reduced quickly to acceptable levels.

We feel we have a thorough understanding of the need for aircraft noise reduction and how it can be accomplished. I'd like to share a few of these ideas with you.

As part of a recent federal program which studied the future of Inglewood, a survey was made to ascertain community opinions on important subjects. When asked, "How important to you is finding a solution to the following issue—jet noise control?" 61% responded that it was of the greatest importance. Twenty percent responded that it was very important. Only the issue of crime control was considered more important with 73% responding that solution to crime control was of greatest importance and 17% responding that it was very important. All other issues had less than 33% responding "of the greatest importance." It is therefore apparent that the problem of jet noise rivals the problem of crime control as the most important issue facing the future development of Inglewood. More detail on the results of Inglewood's Community Review Program questionnaire is shown in Attachment 1.

Associated with the above-mentioned Community Review Program was a study relating residential land values and vacancy rates to aircraft noise levels. We found that there was a statistically significant correlation between high noise levels and low land values. On the average, land subject to noise levels of less than 80 PndB was valued 50% higher than land subject to noise levels greater than 110 PndB. There was also a statistically significant correlation between high noise levels and high rental property vacancy rates. So ments but will not allow local controls. The authority for elimination of aircraft noise pollution must therefore be given to the Environmental Protection Agency where it belongs.

For the information of the Senate Public Works Committee I have included a copy of the testimony which we presented to the Environmental Protection Agency's hearings on noise control. This report is a very comprehensive review of Inglewood's noise program and the possibilities for noise abatement in the future. It covers other sources of noise besides aircraft noise.

CONCLUSIONS

We feel there is clearly a need for major actions to reduce aircraft noise pollution. The means of accomplishing this reduction are readily available. What is lacking is a commitment by those in authority to make use of available technology to improve the environment for our citizens. The Federal Aviation Agency has been unwilling to accept this responsibility. Therefore, we recommend that the United States Congress place authority for aircraft noise abatement in the Environmental Protection Agency and demand that standards for aircraft noise pollution be established and enforced with the goal of eliminating incompatibility between airports and communities by no later than 1985.

Respectfully yours,

RANDALL L. HURLBURT,
Environmental Standards Supervisor.

Mr. MUSKIE. I also ask unanimous consent to have printed in the RECORD a 10-point action program for the alleviation of noise pollution in Inglewood, Calif., dated January 1, 1970, which lists an action program which the city of

Inglewood has found possible to do, even without the assistance of the Federal Government.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 10-POINT ACTION PROGRAM FOR THE ALLEVIATION OF NOISE POLLUTION IN INGLEWOOD, CALIF.

THE PROBLEM

The problem of jet noise crosses political boundaries and therefore cannot be solved by any single local community acting alone. A lasting solution can only come from a cooperative effort of the Federal Aviation Administration, the air transport industry, airline unions, aircraft, airframe and engine manufacturers, airport operators, legislators, and citizens. However, a solution must begin with local communities. Local communities, acting together can be the catalyst that brings all other bodies together in a massive attack on the problem of jet aircraft noise, as well as all environmental noise pollutants.

AN ORGANIZATION OF COMMUNITIES

Indeed, it now apepars that a forceful organization of communities is the only catalyst that can bring the other bodies together in the attack that is essential to protect our society from jet noise pollution.

The City of Inglewood, and other communities throughout this country, have wrestled with the jet noise problem for over ten years. Each community has, for the most part, acted alone. Our success has been less than desirable. There is more jet noise pollution today than ever before and the trend is unmistakably upward. But we feel that our efforts to this date have not been in vain. We have reached a point where definite progress can now be made. Our experience has given us a "feel" for the magnitude and extent of the problem, as well as for the steps that must be taken to solve it. Also, Schools, public buildings, churches, apartments, and dwellings should be retroactively soundproofed if the sound levels are above the acceptable standards when jet aircraft fly overhead.

Point 2—Planning and development studies

Inglewood should begin rezoning, master planning and redevelopment studies to determine areas where incentive zoning, property assembly, and alternate land use redevelopment might be useful to assist property owners to enhance their property values under the jet aircraft corridors.

Point 3—Comprehensive noise ordinance

Inglewood should enact a comprehensive noise ordinance covering all sound in the City, including jet aircraft. Legally the ordinance must complement federal air regulations. It can neither supplant nor conflict with federal regulations.

Enforcement of such an ordinance is estimated to require two fully equipped enforcement trucks, costing about $30,000 each. Annual operating expenses for a technician and helper for each truck will add another $23,000 per year. Eventual operating expenses will approach $125,000 per year for around-the-clock comprehensive anti-noise enforcement.

It should be noted that our noise ordinance is to include all noise, whether emitted from aircraft, air conditioners, compressors, or amplification devices. Aircraft will not be treated differently in any respect and federally certified aircraft flying within approved federal regulation standards cannot, and will not be proscribed within our proposed noise ordinance.

(The above ordinance has been adopted by the Inglewood City Council. In November, 1969, the City employed an Acoustical Engineer to begin defining the specific equipment needed for the enforcement of the ordinance.)

Point 4—Legal actions

The City Attorney should be given authortraffic controllers to man such equipment, thereby permitting a revision in the air traffic procedures on approach to LAX. Planes could then fly over Inglewood using less power. Were no turns made by approaching aircraft inside the outer marker at approximately the Harbor Freeway, power settings could be reduced by stabilizing approaches at a higher altitude, permitting the use of less power on final approach. Further, noise effects would be highly restricted—to two relatively narrow corridors over Inglewood approaching the two runway complexes.

This would reduce jet noise to the disappearing point in several areas of the City. Noise directly under the flight path could be reduced by as much as 8 PnDb.

Point 7—Quieter engines

Inglewood should actively push for the development of quieter and cleaner engines, which can be developed. The City must encourage the air transport industry to recognize the responsibility that goes with mature citizenship and to begin a serious effort to meet these responsibilities by investing as much money and effort into noise suppression as they have in things such as speed.

Point 8—Glide slope increase

An increase in the glide slope angle to at least 4 degrees is to be sought. With this increased glide slope angle a professional airline captain should be able to descend at a lower setting and still maintain adequate standards of safety and comfort for his passengers. Such approaches were done for a long period during the 1965 Watts riots, and have become known locally as "a Watts approach."

Point 9—FAA, CAB, and State PUC intervenor

The City should be an intervenor in all Federal Aviation Administration, Civil Aeronautics Board, and California Public Utilities Commission proceedings affecting noise. Examples of such proceedings are proposed

we are no longer acting alone. The communities most affected by jet noise in this country are beginning to band together.

As this nationwide organizational process continues a program for eliminating jet noise as well as other environmental noise will be planned. All of the efforts exerted by individual communities and organizations to combat jet noise will then be studied and organized into this single national effort. In anticipation of this massive national task the City of Inglewood has condensed ten years of experience and effort into a Ten Point Action Program, which Inglewood is pursuing on a local level. Inglewood feels that many aspects of this Ten Point Action Program will be incorporated in the national effort against jet noise.

The general philosphy of the Inglewood City Council in adopting the Ten Point Inglewood program accepts jet aircraft as desirable, indeed essential, for today's highly complex need for rapid travel. The Inglewood program endorses the expansion of airports to accommodate more and better jet aircraft. The problem, as Inglewood sees it, is noise—not airplanes.

The Inglewood program calls first upon the people of Inglewood to adjust, within reasonable human limitations, to the advent of jet planes. The Inglewood program then calls upon the flying industry and federal and state regulatory agencies to consider the entire society and not just the traveling public when building, flying, and regulating America's growing fleet of jet planes.

WHAT INGLEWOOD CAN DO

Four of the ten points in the Onglewood program are things the City of Inglewood can and will do to better adjust to jet planes.

Point 1—Building code revisions and soundproofing

The City Building Code should be revised to require soundproofing of all affected new construction and remodeling.

ity to take appropriate legal action on behalf of the City. The first action should be to legally compel the City of Los Angeles Department of Airports to extend the runways to their maximum point westerly and thereby relocate the landing threshold in such a manner as to place landing aircraft at a higher altitude over Inglewood.

The second action series should be to file a claim against the City of Los Angeles for damages on behalf of residents and property owners living in Inglewood within or near the landing corridors.

Next, the City Attorney should be authorized to file and maintain a legal action to establish the legal right of adversely affected residents and property owners to recover monetary damages on the basis of a class action.

(The legal actions proposed above have been instituted by the City of Inglewood.)

WHAT THE FLYING INDUSTRY CAN DO

Inglewood feels that the flying industry can and must do much more than they have done in the past to insure the health and safety of those who live under flight patterns and near airports.

Four points of the Inglewood program are directed specifically at the flying industry. They are:

Point 5—Runway extensions

All runways at Los Angeles International Airport should be extended to within a minimum distance of the beach highway, and a displacement of the landing threshold an equal distance to the west. A STOL (Short Take Off and Landing) strip should be established to segregate traffic, thereby reducing the need to revise throttle settings on jet approaches.

Point 6—Approach pattern revision

Inglewood should seek the addition of more sophisticated and modern air traffic control equipment and additional F.A.A. air rules concerning high density terminal areas, airline terminal traffic flow restrictions, engine noise standards, alternate terminal designations, and route hearings.

The City will thus serve notice on all regulatory bodies that airplanes and airports are not merely exotic businesses, aloof from the society that supports them; but rather they are a vital part of the community, which means they must behave like responsible adults.

Point 10—Support national noise abatement efforts

The City should not only support, but initiate, efforts to form a national organization to combat jet noise and other environment noise pollution. Efforts should be made to contact communities and other groups all over the country who suffer from jet noise pollution. Only by pooling our efforts behind a united front can real and lasting progress be made for society as a whole.

(In October, 1969, Inglewood, in conjunction with Hempstead, New York, called a meeting in Washington, D.C., of groups and communities interested in noise abatement. At that meeting was born an organization named NOISE (National Organization to Insure a Sound-controlled Environment).

Mr. MUSKIE. Let me read some of these points.

Point 5—runaway extensions; point 6—approach pattern revision; point 7—quieter engines; point 8—glide slope increase; point 9—FAA, CAB, and State PUC intervenor; point 10—support national noise abatement efforts.

The city of Inglewood, which has been concerned with noise for some time, has found it possible, within the limited scope of its experience, to suggest practical steps, without further study, to deal with the problem of airport noise.

[p. S17761]

What I am suggesting in my amendment is that we back up local efforts, efforts that emerge out of experience with noise that communities already find unacceptable from the point of view of health and public welfare. Let us build on that experience in terms of a national policy. The amendment provides that we shall deal initially only with those airports that EPA identifies as areas where there is unacceptable exposure to noise. That is easy to do. Inglewood, I am sure, would qualify by its own experience. There are others that can do so as well.

Of course, there are breakthroughs to be made in all the sciences related to environmental pollution. But as I have learned in the development of air pollution legislation and the development of water pollution legislation, if all you ever require of an agency at the Federal level is that at some point they issue criteria or make a study, you will postpone almost indefinitely any effective action to deal with the problem. That is why we did not move as fast as we should in dealing with air and water pollution.

The standards are not mandated to be implemented instantly. They are simply to establish criteria and standards, to then use such expertise as FAA has—and I am sure FAA has the expertise to do what the Inglewood plan suggests—in a practical way to begin to reduce the noise levels in the beleaguered communities. That is all this amendment asks. It is not anything more than that. It is not a monster. It is not something beyond our reach. It is not something that cannot be done. It is something that would implement practical, already tried—as issue has to be studied fully and that we should have hearings on this specific point. It was not adequately covered in the hearings we had on S. 3342. Much as I would like to see the Senator from Maine's objectives achieved tomorrow, I believe it is impossible and it would not be wise legislation.

I yield 5 minutes to the Senator from Nevada.

Mr. CANNON. I thank the distinguished Senator from California for yielding to me.

Mr. President, I, too, want to join him in saying that I recognize the problem, the very great problem, to which the Senator from Maine has addressed himself. However, I am completely opposed to the amendment that the Senator from Maine has offered, for many of the same reasons pointed out by the Senator from California.

I may say that an added point that I find very disturbing is that at the last minute, in the closing days of the session, attempts are made to modify legislation or get legislation through without full and adequate consideration.

The Committee on Commerce has jurisdiction over civil aeronautics and matters relating to activities of the FAA. We have held extended hearings in relation to the problem of aircraft noise to find out what can be done, what procedural changes can be made operationswise, and what actions can be taken to reduce the noise level around airports.

I recognize that people who are living close to an airport and who are most immediately affected feel that this job should have been done yesterday, not ministrator given 9 months, or 180 days, in which to issue noise criteria, and then in the amendment itself it is said that, within 6 months after the enactment of this act, he has to take action pursuant to that noise criteria. So the noise criteria promulgation still has 3 months to go before it can have been promulgated; yet, action will be required by the EPA Administrator 3 months earlier than the criteria have been published.

That is one of the examples that I say point out the bad features of trying to enact legislation in the closing hours of a session of Congress, on the floor of the Senate, involving such an emotional issue, an issue that has to be given rational consideration.

Mr. President, in our hearings we learned that the engine manufacturers are attempting to do everything they can to try to reduce the noise level of new engines coming on stream, and they are doing a fine job.

As a result, the aircraft coming out now—the 747's, the DC–10's, the Lockheed 1011's—are all very substantially lower in noise emission than the earlier aircraft. But they are the new planes coming on the line. It takes time to build new engines and make them more quiet. Also, it takes another decision, and that is, from an economic standpoint, is it economically feasible for new engines to be built and retrofitted to old aircraft reaching the latter part of their years of useful life? Those are some of the considerations that have to be given study and why I support the Senator from California in his position that the committee bill provide for a study. That is

in Inglewood—attempts to reduce noise levels.

So, Mr. President, I urge the adoption of the amendment.

Mr. TUNNEY. I yield myself 2 minutes, then I will yield to the Senator from Nevada.

Mr. President, I do not think anyone could disagree with the stated objectives of the Muskie amendment. I certainly agree with them. I think they are very good objectives, and I wish it were possible to achieve them overnight. Particularly, the people of Inglewood wish they could be achieved overnight. If we had quieter aircraft engines and if it were possible overnight to retrofit all the airline engines that fly into the Los Angeles International Airport, we would be able to solve the problem for the citizens of Inglewood and the citizens of other cities who live adjacent to airports.

But the problem is this: We have not had the opportunity to study the mechanism to achieve a reduction in airport noise the way we must in order to legislate in this area. As I have indicated, in many airports some of the major airport noise is created as a result of trains running by the airport and highways running by the airport.

Is the Environmental Protection Agency in concert with the FAA alone to regulate the scheduling of trains by the airport and to regulate the buses and cars that go by the airport? Should not other agencies like DOT be involved?

The only reason why I point this out is that it demonstrates to me that this tomorrow, and they have a very valid point.

However, I should like to point out, also, that people are still building residential communities right around airports, including Washington National Airport, which is one of the biggest causes of complaint of noise in the area. We see high rises going up and people moving right into an area of great noise, as they did in California, as they built around the Los Angeles Airport and many others around the country. They are unwilling to build away from the airport, and they move in and build and then complain about the noise which is generated.

There are a number of bad features about this amendment, and I will read one at this time:

SEC. 502(a)(1) Within 180 days after the enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate rules and regulations, based on criteria published pursuant to section 407 (a) of this Act . . .

Mr. President, this is one of the examples I had in mind when I said there is a haste to get legislation through that is very ill-conceived and ill-considered. Why? Because section 407 (a) of the Act, to which that section referred, says that the Administrator shall, after consultation with appropriate Federal, State, and municipal agencies and other appropriate persons, within 9 months after the date of the enactment of this section, issue noise criteria.

So on the one hand you have the Administrator saying that he must issue criteria within 9 months, and on the other hand you have the Administrator saying that he must issue rules and regulations within 180 days after the enactment of this Act based on criteria published pursuant to section 407 (a) of this Act. Obviously, he cannot do both. He cannot issue rules and regulations based on criteria published pursuant to section 407 (a) of this Act within 180 days after the enactment of this Act when he has 9 months to issue the criteria.

Mr. President, I am not saying that we should not do something about noise. I am saying that we should not do it in haste. We should not do it in such a way that we will not achieve the objectives we want to achieve. We should not do it in such a way that we will not know what should be done because we want to achieve the objective of noise reduction. We cannot go at it on a piecemeal basis but we must operate as fast as we can.

One of the criteria from the Long Beach area was the extension of runways.

Mr. President, do you know how long it takes to extend a runway? It cannot be done tomorrow, or the next day. Sometimes it takes a year and a half to make an extension of a runway and put it into operation. It depends on many factors; if the land can be acquired for the right-of-way, and to put houses out of the line for extension. Another point would be, presumably, that we would need less power to get off the ground.

I have traveled a lot by air and I, for one, would be reluctant to take any action to see that the pilot of that airplane not use all the power possible in the airplane to get it off the ground and into the air in as safe a manner as possible. This would be one of the problems.

Another problem, of the nine the Senator mentioned from Long Beach, would be the increase in the glide slope. That is already being done and the FAA is experimenting with that. The plane comes in at a higher altitude and we increase the steepness of the glide slope so that we do not have as much side exposure or underneath exposure to the noise. These are steps which are being taken now.

Thus, I would respectfully submit that the amendment of the Senator from Maine (Mr. MUSKIE) should be defeated. It should be, in all good judgment. The

committee provision for a study should be agreed to, so that we can find out what we can do and then get on with the job.

Mr. BENNETT. Mr. President, I ask unanimous consent that Dr. Lawrence Woodworth of the staff of the Joint Committee on Taxation be allowed the privilege of the floor for the next hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I join my distinguished colleague from Nevada in opposing the amendment. He knows what he is talking about so far as airplanes are concerned. He probably has more expertise in this matter than any of us in the Senate, or any one Senator.

This is a problem where we are all agreed on the objective but we have to be practical about some of these things, too. I know that every generation of jet airplanes has been quieter than the previous one, and that the airplane manufacturers are doing everything they can to make the next generation of jets quieter than before. That is being done.

I frankly prefer the House bill on this matter, because it is a little more practical. Moving ahead too swiftly, with the amendment of the Senator from Maine (Mr. MUSKIE), is very ill advised at this time. There has not been any hearings on it. A study should be made, Mr. President, and I will tell you why. We have gone through a good many hearings in the Commerce Committee over the years on this aspect of aviation, and it is pretty hard to find noise experts who agree on much. We had two or three testify. I do not know whether they were self-serving bill is that it would undertake to preempt the authority of State and local governments to deal with this problem and would substitute for State and local action a Federal study.

If we are not prepared to assume the authority to do the job, then my views is, leave it to the States and the communities to continue what they are now struggling to do and not preempt the field and throw a study at them as the Federal answer.

Mr. President, on July 19, 1972, the distinguished Senator from California (Mr. TUNNEY) wrote me a letter on the question of the FAA. Let the Senator from California give us the facts:

I read in part:

For fourteen years the FAA has had authority to control aircraft noise, and regulations have existed for four years. The 1968 FAA regulations require that new aircraft applying for type certification after December 1, 1969, meet a standard of 108 EPN dB. Not only is this standard too weak, but only the new DC–10, L–1011's, Cessna Citations, and about ten percent of the Boeing 747's are subject to it. The Airport Operators Council estimates that by 1975, out of a fleet of 2100 aircraft, only 393, or 18.6 percent will be required to have noise certification. Improvement in these figures is unlikely since the trend has been to refit rather than retire the existent fleet, as evidence by the new "wide body look" given to the 707 interiors.

It is for this reason, as stated in the Tunney letter, to me, why we must have the development of cumulative noise standards in the airport environment.

Mr. President, that is why I offer this amendment.

bill will be considered in full Committee next Thursday, July 27, at 10:00 a.m. While there continue to be several outstanding issues to be decided, I firmly believe this bill offers a comprehensive scheme for environmental protection from noise pollution.

I am writing in advance of the markup session to express my personal interest in the bill, and my strong hope that it will be passed in this session. I hope to contact you personally prior to the markup session to get your reactions to it. Before I do, however, I would like to share my views on the need for the legislation and on the outstanding issues.

The sixth print, a copy of which I attach, is the draft reported out of Subcommittee. It evolved from three days of legislative hearings, the June 8 session, numerous meetings of staff, and additional comments by the Administration, industry and environmental groups. The latest version has again been widely distributed, and I understand that staff is compiling and will circulate comments received. Additionally, I met earlier this month with airport managers and operators, local groups and local officials at three major airports in California, where the noise problem is particularly acute. Their helpful comments, which will also be circulated, were supportive of the need for comprehensive regulation of airport and aircraft noise.

NEED

The effects of excessive noise on health are well documented. In addition to hearing loss—which may include cell damage and be irreversible—there are all sorts of insidious effects to many bodily and psychological functions. The metabolic changes brought about by noise continue to take place during sleep—even when the noise is not loud enough to cause arousal. Most disturbing is evidence that noise can affect the unborn child, causing changes in heart rate and skeletal muscular contractions, and

or not, but they said they did not think there were over four or five noise experts in the United States.

This is a problem that is not only highly technical but is a problem that has to be placed in a practical perspective as to how we proceed toward the objective.

The Commerce Committee did not see this amendment until 1 p.m. today. That is why the study should go ahead. I also understand it was discussed in the Committee on Public Works and was rejected there.

If carried out to its extreme, it would result in a drastic cutback in air service.

I cannot believe that the FAA and the EPA would be unreasonable. I think we have to assume they will act as reasonable people because both have the same objective and we are moving ahead. But on this business of trying for hard and fast drastic rules on limiting the use of airplanes, there has got to be more study to determine if this is wise and practical.

Mr. MUSKIE. Mr. President, may I say to the distinguished Senator from Washington that I doubt he understands the amendment. He talks about hard, drastic rules. There are no hard, drastic rules in this amendment. It provides, for the establishment of criteria with respect to noise levels; it provides for publishing the criteria, and it also provides for giving the FAA the authority to develop the guidelines for implementing the criteria. It provides for the FAA to give technical assistance. There is nothing hard and drastic about it.

But, Mr. President, my objection to this

Let me read another portion of the Tunney letter on the mechanisms of the bill:

The mechanisms for controlling aircraft noise is substantially parallel to other environmental legislation including the Clean Air Act.

The Senator was correct.

Continuing reading:

The EPA Administrator would set performance levels for noise reduction in airport environments which must be met in order to protect the public health and welfare. For airports which exceed the target levels, a plan must be developed and submitted by the airport operator which could include controls on the frequency of flights, the hours of airport operation, changes in operational and flight procedures, land use, and other techniques which the Secretary of Transportation determines to be appropriate and safe to achieve the levels established by EPA.

Mr. President, this amendment before us does nothing more than the Senator from California (Mr. TUNNEY) urged on me in his letter of July 19.

I ask unanimous consent that the full text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., July 19, 1972.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR ED: On June 8, the Subcommittee on Air and Water Pollution approved S. 3342, the Noise Pollution Control Act of 1972. This

inhibiting weight gain. There is also a statistically significant correlation between high noise levels and low land values—especially, high rental property vacancy rates around airports.

ISSUES

Of all the major sources of noise pollution aircraft noise is by far the most noxious. Using the standard unit of measurement of sound, the decibel, conversational speech will typically be at the level of sixty dB, heavy city traffic at ninety-two dB, and a jet airliner 500 feet overhead at 115 dB. Because the decibel scale is a logarithmic scale, a difference of ten units is actually 100 times as intense. If a factor for the irritation of high frequency sounds is taken into account, aircraft noise measures even higher.

Residents of Inglewood, California were recently asked how important to them it was to find solutions to problems of jet noise, crime, etc. 61% responded that it was the greatest importance to control jet noise, and 20% answered that it was very important. These figures compare with 73% and 17% on the issue of crime, and no figure higher than 33% for any of the other issues. In Inglewood, therefore, the problem of jet noise rivals the problem of crime control as the most important issue to local residents. These sentiments were echoed in Okland, Marin County and San Diego.

THE FAA'S FAILURE TO ACT

The extraordinary levels of aircraft noise and their severe impact on the public health have led to repeated and increasing pressure from many sectors for effective control. For fourteen years the FAA has had authority to control aircraft noise, and regulations have existed for four years. The 1968 FAA regulations require that new aircraft applying for type certification after December 1, 1969, meet a standard of 108 EPN dB. Not only is this standard too weak, but only the new DC–10, L–1011's Cessna Citations, and about

ten percent of the Boeing 747's are subject to it. The Airport Operators Council estimates that by 1975, out of a fleet of 2100 aircraft only 393, or 18.6 percent will be required to have noise certification. Improvement in these figures is unlikely since the trend has been to refit rather than retire the existent fleet, as evidence by the new "wide body look" given to the 707 interiors. It is predicted, further, that the increase in numbers of flights should more than offset noise reductions from new quarter aircraft engines.

THE MECHANISM OF S. 3342

The mechanism for controlling aircraft noise is substantially parallel to other environmental legislation including the Clean Air Act. The EPA Administrator would set performance levels for noise reduction in airport environments which must be met in order to protect the public health and welfare. For airports which exceed the target levels, a plan must be developed and submitted by the airport operator which could include controls on the frequency of flights, the hours of airport operation, changes in operational and flight procedures, land use, and other techniques which the Secretary of Transportation determines to be appropriate and safe to achieve the levels established by EPA.

DOT would have responsibility to ensure that noise emission standards for aircraft are safe and technologically available. It would also review for purposes of safety and effect on commerce any plans submitted by airport operators to implement Federal ambient standards.

Each agency would act consistent with its mandate. As in most other areas of pollution, EPA would be empowered to prescribe standards to protect the public health and welfare. FAA would maintain sole responsibility for aircraft safety and technology, and, in coordination with the CAB, for developing and promoting an air transportanity to build the hardware necessary to deal with this problem and in the meantime permit the communities—and the FAA has a veto in the field—to take pragmatic approaches to the problem which will enable them to make at least a beginning toward reducing the noise around airports.

Mr. President, I reserve the remainder of my time.

Mr. TUNNEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from California has 8 minutes remaining.

Mr. TUNNEY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. TUNNEY. Mr. President, I am very pleased that the Senator from Maine read my letter because the essence of that letter is still my position. And the whole letter would be my position if we had committee print No. 6 of S. 3342 before us today.

I wrote my letter based on section 502 of print 6 of the bill which is a far different provision than section 502 of the bill reported. I might say that the pending Muskie amendment is quite different both from print six to which I addressed my letter and from the version of the provision we now have before us.

We had established in print six a mechanism whereby a conference was held at a local airport which included participation by the airport operators, FAA, EPH, and others. The Senator's amendment, as I understand it, does not contain

ator from Maine is recognized for 2 minutes.

Mr. MUSKIE. Mr. President, I say to the Senator from California that if he wishes to offer a substitute for the pending amendment the language contained in print 6 covering the same subject, I would accept it without reservation. I would be happy to accept that as a substitute for this. The language in print 6 is similar to this language. It says:

A plan must be developed and submitted by the airport operator which could include controls on the frequency of flights, the hours of airport operation, changes in operational and flight procedures, land use, and other techniques which the Secretary of Transportation has laid out, and other techniques.

I still insist that those techniques would be implemented in print 6 and the language before us. Second, I read the footnote on that letter of July 19, 1972:

P.S.—Thanks so much for your personal letter of support for my position. . . .

Now the Senator makes an argument that is a little different. He says that the only reason he will not go along with the deletion of the provision is that he wants a bill that starts now. The pending bill does not start now on the problem. It just provides for a study. It does not start now. I am trying to help the bill to enable it to start now. That is the rationale of the amendment.

Mr. President, before I forget it, I ask for the yeas and nays, or perhaps I should suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Maine does not have enough time under the present rule to suggest

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tion system which meets commercial needs while not degrading environmental quality.

As in other areas, I feel strongly that environmental programs should be implemented by environmental agencies. At the same time we must insist on safety and, to the maximum extent practicable, avoid disruption of commerce. I think the Subcommittee bill meets these tests and hope you will support early action on effective regulation.

I will contact you personally within the next week to get your reactions to this important issue.

Best regards,

JOHN V. TUNNEY,
U.S. Senator.

P.S.—Thanks so much for your personal letter of support for my position at the Subcommittee Exec. sess. Leon has been a terrific help and I look forward to seeing you both on Thursday.

Mr. MUSKIE. Mr. President, I do this not to embarrass the Senator from California but to make the point that, of course, it is tough but, as the Senator knows, in the water pollution bill we sent to the President this week, we require of the industry the development of a technology which does not now exist. Because we know as a committee, that unless we put this kind of pressure on the industry, we will not get the hardware. When our only means of control is technical, we have to build pressures into the bill to develop the technology. What we propose to do here is to do nothing more than we did in the Clean Air Act of 1970 or the Water Pollution Act of this year. We propose to set targets and to set standards which will force industry and the technological community to meet those standards.

Mr. President, I am not saying that the Senator's amendment might not be a superb amendment. However, in the committee when we were asking tough questions as to how a mechanism to establish cumulative levels of noise should work and we could not secure agreement.

We want a bill that will start to curb the noise around the airports now. We are not willing to wait 2 or 3 years in order to preserve a purist position. We fought to give EPA a lead role in establishing aircraft noise emission levels, and we won in committee.

I am going to fight to protect the language of section 501, which establishes EPA as lead agency in setting noise emission levels. It is good language and should be maintained. But it is quite different to say that I was supportive of Senator MUSKIE's amendment to section 502 when I did not know it existed and did not see it until about 2 hours ago.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I ask unanimous consent that we may have a quorum call with the time taken out of neither side.

The PRESIDING OFFICER. Is there objection?

Mr. TUNNEY. Mr. President, reserving the right to object, I would have just one further response to the Senator.

Mr. MUSKIE. Mr. President, we have not given up our time. I want the yeas and nays.

Mr. TUNNEY. Mr. President, will this time be taken out of our time?

The PRESIDING OFFICER. It will be taken out of the time of neither side.

Is there objection to the request of the Senator from Maine? The Chair hears none, and it is so ordered.

Mr. TUNNEY. Mr. President, reserving the right to object, I first yield 2 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 2 minutes.

[p. S17764]

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

The Senate resumed the consideration of the bill (S. 3342) to amend title IV of the Clean Air Act, and for other purposes.

Mr. MUSKIE. Mr. President, I now ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. BOGGS. Mr. President, I wish to express my strong support for S. 3342, the Environmental Noise Control Act of 1972. This legislation, I believe, represents a major first step toward a better environment through the elimination of excessive and unnecessary noise.

In a 20th century urban society, all of us are subjected to a continual onslaught of noise. This occurs literally from the time we wake up in the morning until we go to sleep at night—if we can get to sleep with the racket going on outside our window.

Consider a typical day. The average American is subjected to a wide range of household noises, electric shavers, dishwashers, garbage disposals, and dozens of other sources, including our neighbors' stereo set, or an overhead jet.

On our way to work, our nerves are jangled by the noise of car horns, trucks, construction equipment, buses, or subways, depending on where we live.

At our office or factory, we may be assaulted by noisy machinery and equipment.

After work, the cycle begins again, in reverse.

To an extent, we seem to be able to adapt to such noise—to an extent. The average citizen may well be totally unaware of the range of noises to which he is subjected during his day, and of the total effect of continual exposure to noise.

Yet, all of us are aware of the need for quiet.

When planning a vacation, do not we tend to choose a retreat, at least partially, because it is quiet?

Apart from the health problems associated with noise, American society seems to seek a quieter environment for its own sake. If we can cut down on the excessive and unnecessary noise, the quality of our lives will be improved.

Mr. President, the bill before us today is an important and valuable piece of legislation. I support it fully, because we need a coordinated, Federal program to control noise pollution.

By directing the Administrator of the Environmental Protection Agency to set standards on major noise sources based on the best available noise control technology, we will achieve a quieter environment based on a reasonable standard.

I know some members believe EPA should not have authority over aircraft noise. I disagree. I believe the legislation giving EPA the responsibility for setting the standard, with a Federal Aviation Administration veto based on safety, is the best course, because the agency responsibile for protecting the environment can best make this decision.

But let us not assume that this is a problem which can be solved by governmental action alone. Private citizens can

and must play a key role in qiueting excess noise in our Nation.

We need to become more noise-conscious, more aware of the need for quiet. Private citizens, in the free marketplace, can do as much as for quieter environment as the Congress can accomplish by legislation. For example, it has been recognized that a family will often buy a noisy vacuum cleaner, in preference to a quieter one, because the family mistakenly equates noise with cleaning power. The same is true with motorcycles, cars, and other things we buy. If we understood that the noisier machine was not necessarily the best, and that the excessive noise harmed the buyer, we might choose the quieter machine.

Another contribution the private citizen can make is simply to complain more when irritated by noise. Noise is usually a byproduct of a necessary activity. And it is often a byproduct that goes unnoticed by its producer.

Citizen complaints could be effective, for example, as a way to encourage construction contractors to use quieter equipment, when available, and confine their activities to reasonable, daytime hours. Citizen activity can also prod State and local governments into writing the kind of effective antinoise use ordinances that continue to be permitted by this legislation.

Mr. President, peace and quiet is a universal, human need. A quieter world is a better world, a world in which the quality of our lives will be enhanced. I urge the passage of this legislation. While it is not a cure-all, it does represent a Administration review with regard to safety and technological feasibility; fifth, EPA would be authorized to make grants to State and local noise control program agencies; sixth, several new enforcement powers would be granted, including civil and criminal penalties, authority to enjoin violations and authority for citizens to compel the Administrator to perform nondiscretionary acts and to bring any person into compliance with the terms of the statute.

Some of the major problems with which the committee grappled included the appropriate standard to be set for new products manufactured in the United States, the respective roles of Federal, State, and local governments in control of noise, and the respective roles of the EPA and the FAA in the control of aircraft and airport noise.

Building upon the experience of the Clean Air Act and the Federal Water Pollution Control Act, the committee determined that rather than the vague and general test of protecting public health and welfare, it would be preferable to set standards for major sources of noise based on best available technology taking into account the cost of compliance. Witnesses before the committee indicated that in most cases the noise of major classes of products manufactured in the United States could be drastically reduced by the applicaton of existing technology and that the cost of applying such technology would be comparatively reasonable.

Therefore, it was determined that precise, uniform, and enforceable standards

major step toward a better quality of life for all Americans.

I would like to explain some of the features of the bill.

In his last two environmental messages the President proposed comprehensive noise legislation. We have taken the major objectives of that legislation, strengthened and broadened many of its provisions, and incorporated a number of the concepts from the Clean Air Act Amendments of 1970 and the Federal Water Pollution Control Act Amendments of 1972 now before the President for signature, and produced what we think is a stronger, more enforceable, more workable bill. We have received assurances from William D. Ruckelshaus, the very able Administrator of the Environmental Protection Agency that he approves of S. 3342 and could accept the changes from the administration's proposed legislation.

Some of the major features of this legislation include, first, the application of the best available technology standard to major classes of manufactured equipment; second, the direction that all Federal agencies conduct their programs in a manner fully consistent with this legislation; third, that EPA develop basic criteria documents on noise and its control, that EPA publish reports identifying products or classes that are major sources of noise and provide information on techniques for controlling noise from such sources; fourth, that EPA set noise levels for interstate motor carriers, railroads, and aircraft, with the aircraft standards subject to Federal Aviation could best be obtained by requiring that EPA apply a technological standard rather than apply the health and welfare test directly. In this way, the public health and welfare would be best protected. The committee also chose to broaden the classes of equipment covered by these standards to include not only construction equipment, internal-combustion-powered equipment and transportation equipment as proposed by the administration, but also turbines and compressors, electrical and electronic equipment, and percussive and explosive equipment.

Testimony before the committee indicated that all of these classes are major sources of noise and should be regulated in a comprehensive manner. In a related area, the committee decided that the manufacturer should be required to warrant for the useful life of the equipment that the equipment will be free from defects in materials and workmanship that would cause it under normal use, operation, and maintenance to fail to meet the noise standard. Useful life as determined by the Administrator will have to take into account the range of usès to which such a product might be put. This is not a performance warranty but rather a defects warranty which takes into account the fact that the manufacturer might not be able to foresee all of the uses to which a product might conceivably be put.

The committee was concerned that the Federal, State and local roles in controlling noise be clearly delineated. Therefore it determined that Federal au-

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thority should be primarily for product noise emission standards. State and local authority to establish and enforce limits of environmental noise through licensing, regulation, or restriction of the use, operation or movement of a product would be preserved. On the other hand, States and localities would be preempted from setting noise emission standards which would be enforceable directly or indirectly against the manufacturer.

The committee intended to prohibit burdens on interstate commerce from State and local product emission standards while recognizing that States and localities would have primary responsibility for setting and enforcing limits on environmental noise needed to protect the public health and welfare. This was thought appropriate in view of the very high standard—best available technology—upon which Federal product requirements would be based.

The excessive noise from aircraft operations, particularly in the major urban centers of the United States, has been identified in EPA hearings and other forums and publications as the major noise problem for many of our citizens. The committee was concerned that the legislation which we brought to the floor should address this problem in a more responsible fashion than the bill proposed by the administration and the bill H.R. 11021 which the House passed. These latter bills provide only for EPA to call into question the standards for aircraft set by the FAA if EPA believed they would not meet the public health and welfare standard.

Neither of these bills addressed the EPA to conduct a comprehensive 1-year study of the airport noise problem and report back to the Congress with its recommendations. S. 3342 will authorize such a study.

This legislation will call for a quantum increase in the noise control program of the Environmental Protection Agency. I am confident that Mr. Ruckelshaus will be able to convert the embryonic noise control program which was established pursuant to title IV of the Clean Air Act Amendments of 1970 into a full-fledged Federal noise control and abatement program working in close cooperation with the States and localities throughout the Nation.

EPA will for the first time be able to coordinate the various Federal noise control programs, including the program of the Department of Labor under the Occupational Safety and Health Act of 1970, the program of the Department of Transportation for control of noise from transportation sources, and the program of NASA for research on aircraft noise. This will require a greatly increased level of funding and staffing and therefore we have provided $18 million in fiscal year 1973, $36 million in fiscal year 1974, and $50 million in fiscal year 1975.

In addition, there is provided for State grants $5 million in fiscal year 1973, $7.5 million in fiscal year 1974, $10 million in fiscal year 1975; and for the low-emission product incentive purchases $1 million in fiscal year 1973, $2 million in fiscal year 1974 and $2 million in fiscal year 1975. In some cases EPA may have to call upon other agencies to detail personnel

Senators from Tennessee (Mr. BAKER), and from Vermont (Mr. STAFFORD) gave considerable time and attention to this bill and I wish to give credit to their valuable efforts.

Mr. TUNNEY. Mr. President, I am prepared to yield back the remainder of my time unless someone else wants to talk, after I use up 1 more minute of my time. Is the Senator from Maine agreeable to that?

Mr. MUSKIE. Mr. President, I will agree to not more than a minute if I might respond.

Mr. TUNNEY. Mr. President, I would like to point out once again something that I made clear in my opening remarks.

The bill presently contains section 501(c) which states:

> Each Federal agency with regulatory authority over air commerce, aircraft, or airport operations, or aircraft noise emissions, including the Civil Aeronautics Board, the Federal Aviation Administration, and the Environmental Protection Agency, shall exercise such regulatory authority so as to reduce noise in airport environments and surrounding areas.

That relates to such things as flight and operational procedures, and any other means within present regulatory authority of relevant agencies. It relates to all those matters. No one can say the bill does not contain significant, strong language now so that these agencies must utilize their authority to produce a quieter airport environment. I do not want the RECORD to appear that the committee and the manager of the bill are not in favor of reducing airport noise. This language will insure that all existent

critical problem of airport environmental noise as distinguished from the more narrow question of aircraft noise emission. S. 3342 vests authority in EPA to set standards for aircraft and aircraft engines based on the same standard as that for other classes of equipment, that is, on the basis of the degree of noise reduction achievable by applying the best available demonstrated technology taking into account the cost of compliance.

Of course, the committee determined that the safety of aircraft operations must be protected at all cost. Therefore, it reserved to FAA the right to review and, if need be, veto EPA proposed aircraft standards if they do not insure the highest degree of safety of, if the technology is not available to implement the standards.

This division of authority will provide that the environmental regulation is vested in the agency most concerned with environmental protection, as in the Clean Air Act and the Federal Water Pollution Control Act, and in the provisions of this bill for control of noise emissions from other classes of products. At the same time the special requirements of air safety and the need to assure the application of technological expertise by FAA is preserved.

The committee had hoped to deal with the problem of cumulative noise exposure in areas surrounding airports. However, we felt that in view of the lack of information as to how to solve this problem, it would be preferable to authorize to help set up programs and specific legislative authority is provided in the bill for such transfers.

We recognize that in many cases the control of noise is a local responsibility. Therefore provisions are included in the bill for grant support to State and local agencies and for joint enforcement of the bill's provisions. The committee envisions the closest cooperation of EPA with State and local noise control agencies.

I wish to call attention to the very fine work of the distinguished Senator from California (Mr. TUNNEY) who has worked with great enthusiasm for this bill and particularly for the provisions to control aircraft noise. The distinguished Senator from Maine (Mr. MUSKIE), the chairman of the Subcommittee on Air and Water Pollution, provided the same great leadership which he has demonstrated in guiding legislation on air and water pollution control, solid wastes and other environmental problems. The distinguished Senator from West Virginia (Mr. RANDOLPH), and chairman of our committee was most helpful in assuring that our committee moved this important legislation, notwithstanding the severe press of other pending business.

I take particular pride in calling attention to the efforts of our distinguished colleague from Kentucky, Senator COOPER, who will soon retire and who has been instrumental in producing a strong and workable noise bill, just as he has worked untiringly for other environmental legislation. The distinguished regulatory authority must be used.

Mr. MUSKIE. Mr. President, I may have to take more than a minute. There is no provision in the bill, unless I have been greatly mistaken during the course of committee work over a period of weeks, that authorizes noise standards or the issuance of criteria, or which provides for the development of plans for airport managers, or to require the FAA to provide technical assistance. I am not aware that it is there, but if it is we should have unanimous support for this amendment.

I gather the language the Senator refers to is on page 90 of the bill which reads, on line 17:

"(c) Each Federal agency with regulatory authority over air commerce, aircraft or airport operations, or aircraft noise emissions, including the Civil Aeronautics Board, the Federal Aviation Administration, and the Environmental Protection Agency, shall exercise such regulatory authority so as to reduce noise in airport environments and surrounding areas.

I suggest that on its own with such authority the FAA has not used such authority, and if this means what it says, the Senator should be glad to incorporate in the bill the procedures covered by the pending amendment.

With that, unless others wish to speak, I am prepared to yield back my time.

Mr. TUNNEY. I yield back the remainder of our time.

Mr. MUSKIE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agree-

ing to the amendment of the Senator from Maine. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. MILLER), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. FANNIN) is absent because of illness.

Saxbe	Stennis	Talmadge
Scott	Stevens	Tunney
Sparkman	Symington	Weicker
Stafford	Taft	Young

NOT VOTING—22

Allott	Griffin	Miller
Baker	Harris	Mundt
Chiles	Hatfield	Pell
Cook	Kennedy	Spong
Curtis	McGee	Thurmond
Edwards	McGovern	Tower
Fannin	McIntyre	
Goldwater	Metcalf	

So Mr. MUSKIE's amendment was rejected.

Mr. RANDOLPH. Mr. President, noise is one of the most pervasive pollutants in our society. In our mechanized industries, transportation systems, and households, the level of noise to which the average citizen is exposed has increased to an astonishing level. Present trends indicate that the amount of environmental noise with which Americans must contend will double within 10 years.

At the present time as many as 44 million Americans have the comfort and serenity of their homes adversely affected by noise from aircraft or traffic, and 21 million more Americans are affected by construction-related noise. There may be as many as 40 million Americans whose exposure to noise constitutes a health hazard, with potential hearing impairment or other physiological and psychological effects. Not only is noise a serious problem of the workplace but it becomes increasingly difficult for individuals to find the quiet in their home or place of recreation necessary to provide a recuperative period for mental processes or the delicate mechanisms of hearing.

standing, and I believe the understanding of the committee, that the Federal Aviation Administration is the agency intended by the Congress to have primary responsibility for aircraft operations and safety in air commerce. The Nation's air commerce system must be operated, first of all, to assure safety for aircraft crews and passengers and for those on the ground, and second, to reduce the levels of aircraft noise to which the public is exposed, to the extent that aim is consistent with the highest degree of safety in air commerce.

Reflecting this understanding, the bill reported by the committee provides that standards for noise emissions from aircraft which manufacturers of aircraft and air carriers must attain would be established on the basis of a joint determination by the Administrators of the Federal Aviation Administration and the Environmental Protection Agency as to the availability of demonstrated control technology and the reasonableness of compliance costs. However, air safety is the paramount concern, and the Administrator of the Federal Aviation Administration must determine that any proposed standards are consistent with the highest degree of safety in air commerce before such standards could be promulgated.

The question of regulating community noise around airports was discussed by the committee. However, it was the judgment of the committee that too little is known about the measurement of noise levels around airports and their effects on health or welfare to justify at this time any regulation of aircraft op-

NIN), and the Senator from Michigan (Mr. GRIFFIN) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Oregon would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 31, nays 47, as follows:

[No. 547 Leg.]

YEAS—31

Aiken	Fulbright	Packwood
Brock	Hart	Pastore
Brooke	Hartke	Percy
Buckley	Hughes	Proxmire
Burdick	Humphrey	Ribicoff
Case	Javits	Schweiker
Church	Mansfield	Smith
Cranston	Mondale	Stevenson
Dole	Montoya	Williams
Dominick	Muskie	
Eagleton	Nelson	

NAYS—47

Allen	Cannon	Inouye
Anderson	Cooper	Jackson
Bayh	Cotton	Jordan, N.C.
Beall	Eastland	Jordan, Idaho
Bellmon	Ervin	Long
Bennett	Fong	Magnuson
Bentsen	Gambrell	Mathias
Bible	Gravel	McClellan
Boggs	Gurney	Moss
Byrd, Harry F., Jr.	Hansen	Pearson
	Hollings	Randolph
Byrd, Robert C.	Hruska	Roth

Legislation to control levels of environmental noise is necessary now to check the rising crescendo of unwanted sound associated with our industrial society and to conserve the hearing and the mental peace of our citizens.

S. 3342, the Environmental Noise Control Act of 1972, as reported by the Committee on Public Works, provides a regulatory framework which will achieve effective control of this form of environmental degradation. Senator TUNNEY in his remarks has described the provisions of the bill in detail. I will emphasize to Members of the Senate several provisions which I think to be important.

First, the bill as reported by the committee addresses the problem of aircraft noise, a problem which our investigations indicated to be one of the most serious, yet one of the most difficult with which to deal. Under the present law, the Federal Aviation Administration is charged with the responsibility for establishing noise emission standards for all types of aircraft. At the same time, of course, the Federal Aviation Administration is required to fullfill its primary mission of facilitating safe and efficient air commerce.

In 1970, the Environmental Protection Agency was created to centralize Federal regulation of environmental problems. A major question which the Committee faced in developing S. 3342 was the proper roles of the Federal Aviation Administration and the Environmental Protection Agency in controlling aircraft noise. It is clearly my understanding based on levels of noise exposure in the vicinity of airports. Instead, S. 3342 provides for a 1-year study by the Environmental Protection Agency of the implications of identifying and achieving levels of cumulative noise exposures around airports. The study also includes the retrofitting or phaseout of existing aircraft and any additional aircraft noise control measures which might be available to airport operators and local governments. The results and recommendations of this study will form a sound base of information for any legislation in this area in the future.

Another issue of importance in this legislation is the question of the roles State and local governments will play in controlling noise emissions after Federal emission standards have been established. The committee received extensive testimony that present standards were controlled by a variety of State and local jurisdictions, producing a situation of conflict and chaos for national manufacturers of such products as vehicles or construction equipment. This situation is placing an intolerable burden on interstate commerce as manufacturers strain to meet conflicting standards or are forced out of some local markets. S. 3342 responds to this problem by providing that once effective noise control standards have been established for any product by the Federal Government, State and local governments are preempted from setting noise emission standards applicable to that product. The intention of the committee is to relieve manufac-

turers from the burden of meeting conflicting standards, so long as there are effective Federal regulations, while preserving the power of State and local governments to deal with all sources of noise in the hands of their users. Thus, limitations on uses may be imposed but no State or local emission standards have products covered by Federal standards.

I also bring to the attention of the Senate the provisions in title V of S. 3342, which establishes a regulatory framework for noise from interstate trucks and buses and the operations of railroads. Here, as well as in the area of product noise emission standards, the transportation industry is faced with the prospect of conflicting noise control regulations in every jurisdiction along their routes. It is completely inappropriate for interstate carriers or interstate transportation to be burdened in this way. The committee met the need for active legislation on moving noise sources by requiring controls on noise from all interstate trucks and buses and railroads, including existing equipment which would not otherwise be subject to product noise emission standards under title IV and the patterns of operations of such carriers. After the effective date of an adequate Federal regulation program, the authority of State and local governments to regulate noise from interstate trucks and buses or trains is completely preempted, except where the Administrator determines it would be necessitated by special local conditions or in no conflict with the Federal requirements.

nated in this legislation. This bill will be a valuable tool in reducing the noise in our cities and our countryside and I urge its passage by the Senate.

Mr. PEARSON. Mr. President, one of the congressional leaders in efforts to control noise pollution is the distinguished Senior Senator from Oregon (Mr. HATFIELD). Since coming to the Senate in 1967, he has been in the forefront of efforts to educate the public about this hazard, and to see that meaningful efforts to control unwanted noise are pursued by the Congress.

Senator HATFIELD hoped to be here on the Senate floor today to participate in this debate, but is in Oregon and unable to be here.

Because of his prominence in this effort, I would like to ask unanimous consent that a copy of Senator HATFIELD's major address to the Noise Abatement Council of America on October 8, 1969; his floor remarks in introducing the Noise Abatement Act of 1970 on November 24, 1970; his opening statement at hearings he chaired on the Noise Control Act of 1971—legislation he sponsored—on June 28, 1971, and his remarks and those of Senator HART in introducing strengthening amendments to that bill on June 21, 1971 all might appear at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Oct. 9, 1969]

NOISE, THE GATHERING CRISIS

(Speech by Senator MARK O. HATFIELD. before the Noise Abatement Council of America, Oct. 8, 1969)

firmly believe that if we do not meet this problem with all the creativity and ingenuity of our age, then within a very short time nothing else will matter, for there will be nothing else to worry about.

Your concern with environmental pollution has brought you here today in order to form an effective citizen's group to combat this onslaught on our planet before it is indeed too late. Your special concern is with the assault of noise pollution on our society and in your recognition of noise as a pollutant you have established yourselves as somewhat pioneers in combating the effects of noise on our society. It was therefore an honor to be invited to speak at this organizational meeting of the Noise Abatement Council of America. Had such groups been instrumental in educating the public to appreciate the inevitable results of uncontrolled air and water pollution and in effecting remedial action to combat these problems even ten years ago then we would not be faced with the present national crisis in these areas. Today let us pledge ourselves to the task of preventing noise becoming another uncontrolled threat to our existence.

The effects of noise, although long a problem, have only begun to receive the well-founded concerns of government, health, industrial and community organizations. We are already far behind the rest of the world in appreciating the scope of the problem. For our backwardness in the field of noise abatement the United States is now the noisiest country on this planet, and frankly, I hate to think that we are now carrying this lack of respect for civilized standards to other planetary bodies. Basically, noise pollution is reaching crisis proportions in the United States and I think that it is time that all of us wake up to this fact.

We should be concerned with noise as a problem because for over a century noise

During the consideration of this bill, I received extensive correspondence on the subject of the warranty required by section 408(d). This warranty, similar to one now in effect for other vehicles under the Clean Air Act, requires manufacturers to warrant that defects in maintenance and workmanship will not cause a new product subject to noise emission standards, under normal uses and maintenance, to fail to conform to those standards under its useful life. The committee, recognizing that useful life will vary substantially for any given product depending upon the uses to which it is put and many other factors, modified the warranty provisions to require the Administrator to take into account the range of uses to which a product might be put as he establishes its useful life. It is the intention of the committee to make the manufacturers liable only for those increases in noise emission which were within his control in the manufacturing process. The user must bear the burden of operating and maintaining the product in a normal way if he wishes to be protected by the warranty on noise emissions.

Mr. President, there have been sporadic efforts by State and local governments to control the noise problem, and recent activity at those levels of government have given a further spur to Federal legislation. In 1970, the Committee on Public Works authored title IV of the Clean Air Act, establishing an Office of Noise Abatement and Control in the Environmental Protection Agency and launching the study which has culmi-

fore the Noise Abatement Council of America, October 8, 1969)

There is a bumper sticker now circulating which says: "Eliminate Pollution Before Pollution Eliminates You." Immediately we will think of studies which threaten a lack of water by 1980 and conjure up the words of California scientists stating that within 50 years their state will be uninhabitable for any form of life, Or we hold our breath for a moment remembering that 142 million tons of smoke and noxious fumes are dumped into the atmosphere each year. Momentarily we feel brief panic and then for one reason or another, we forget the threatening words of the bumper sticker and go about our daily duties in a comfortable shield of self-deception and false security. Unfortunately such an attitude has now brought us to a situation in which the rapidly deteriorating quality of our environment is the most hazardous challenge to not only our health and well-being but to our very lives and those of our children and grandchildren.

Environmental pollution may not pose the immediate destruction that nuclear war does, but I might remind you that the effects are the same and just as lasting. And I might remind you that destruction at the hands of our environment is as immediate as your and my lifetime. And finally, I might remind you that lack of inhabitable land, lack of food, lack of good water to drink and good air to breath are the very conditions under which men become desperate and resort to any and all means to preserve their survival. It is with these thoughts in mind that I state my firm conviction that pollution—all forms of pollution: air, water, and noise pollution, overpopulation, land and soil pollution—is the most challenging and the most crucial problem facing the man of the 20th century. And it is with these thoughts in mind that I

exposure of sufficient intensity and duration has been recognized to produce sensorineural hearing loss. But in spite of this knowledge, an over-exposure to excessive noise is the major cause of hearing loss in the United States today. In fact it is estimated that 10–20 million people in the United States have some degree of hearing impairment.

Everyone realizes that if he is exposed to a very loud noise such as an explosion he may very likely wind up deaf—at least temporarily. What is not so apparent is that the effect of noise is cumulative; it produces as Dr. Leo Beranek, whose work in acoustics is international in scope, an "acoustic fatigue". Repeated moderate noise builds up to produce the same effect as would a single loud noise. And even more important, is the fact that repeated noise is the only type, short of a shattering explosion, that produces *permanent* hearing loss. The importance of this is readily seen when one is considering the harmful effects of exposure to daily occupational noise.

Another matter of some concern is that the noise level of the United States is increasing at an astonishing rate. Over the past 25 years the average increase in noise level has been at one decibel per year. When one considers that damage to the ears can occur at sustained exposure to the ranges around 85 decibels and over, and given our present noise levels, it will not be too many years before noise levels in the United States became lethal. To quote Dr. Vern O. Knudsen, physicist and former Chancellor of the University of California. "If the noise we make keeps increasing at the present rate, it will be as deadly in thirty years in some of our downtown cities as were the ancient Chinese tortures for executing condemned prisoners."

We, know of course that the most pronounced physical effect of noise is damage to the ear. Exposure to intense noise over

varying durations causes partial and in some cases permanent hearing loss due to actual cell damage in the organ of the Cord located within the cochlea of the inner ear.

But noise has much farther reaching effects than just hearing damage. As Paul E. Sabine stated even back as far as the March 1944 issue of the American Journal of Public Health: "There is a wealth of reliable data from medical sources in support of the statement that sustained exposure to noise is a contributing factor in impaired hearing, chronic fatigue that lowers bodily resistance, neurasthenia, increased blood pressure, and decreased working and mental efficiency and that noise should rightfully be classified as an occupational hazard along with gases, fumes, dust, toxic liquids, and bacteria." To put this into, if nothing else, economic perspective, the total cost to industry in compensation payments, lost production, and decreased efficiency due to noise is estimated at well over $4 million per year. In relation to business a World Health Organization report states that before 1939 office noise was costing United States business $2 million per day through inefficient work. Today that figure is $4 million. The psychological and physiological effects of noise are difficult to asses but the correlation between noise and such things as sleep disturbances, hypertension due to the consistant response of hormonal and neurological mechanisms to noise stress, interference with basic communication, the loss in effect performance and even damage to property must be counted as a very real and a very enormous threat to our well-being not to mention the economic repercussions.

The effects of noise cannot be fully appreciated until we have more thorough studies in the field. One effect which needs to be especially explored by sociologists and criminologists is referred to in a recent Fortune magazine article. As related by Fortune: In the Bronx borough of New York City one evening last spring, four boys were at play, fact that permanent hearing loss caused by excessive exposure to noise is now a recognized occupation hazard and is compensable in only 35 states. I am always reminded of the basic lack of awareness in this field by an unfortunately true story which occurred when one of my aids was touring a textile factory in the South. When he commented on the high level of noise to which the workers were subjected, the manager hastened to assure him that immediate efforts were being made to correct the unpleasant conditions. "Next week the factory is playing country-western music over the loud-speaker at a level which will block out the noise of the factory."

The noise of our industries is put into further perspective when one considers them in light of "safe" noise levels. There are differences of opinion about permissible occupational noise levels. The American Academy of Ophthalmology and Otolaryngology states that our present knowledge of the relation of noise exposure and hearing loss is much too limited to propose safe amounts of exposure. However, the Academy recommends noise-exposure control and tests of hearing if there is habitual exposure to continuous noise at 85 decibels at a frequency of 300–1200 cycles per second. Noise is measured in a dimensionless unit called the decibel which is used to describe the levels of acoustical pressure, power and intensity.

The decibel expresses a logarithmic ratio between two sounds. In other words, the difference between a noise with a decibel rating of 60 and that with a rating of 70 is a relative increase of 10 times the lower level. The frequency of noise expressed in cycles per second is useful for rating noise hazards since some frequencies are more likely to cause hearing damage than others, with high pitched sounds more annoying than low pitched sounds. The British Medical Society recommends hearing conservation measures when noise exceeds 85 decibels in the 250-4000 cycles per second range.

forms of control the consequences are logical—existing knowledge for noise control is not even applied.

Noise control costs money, and it is not reasonable to ask sympathetic construction firms to invest in noise control only to let unsympathetic firms underbid them on jobs by avoiding the noise control costs. Air compressors, pneumatic drills, power saws, concrete mixers and other machines involved in the construction or demolition of buildings are permitted in some urban areas between 7 am and 6 pm, six days a week and at night with special permit. Combined with the poor soundproofing in modern apartments, the sounds of congested traffic which can reach upwards of 90 decibels, and the multitudinous other sounds of "civilized living", the city dweller is caught in the midst of a "cacophenic catastrophe".

Europe and such countries as Russia and Japan have for some time had strictly enforced noise abatement laws, including zoning and construction measures and national councils like the Swiss Anti-Noise Commission which deals with the basic medical, acoustic and technical questions of road, rail and water traffic: aircraft noise, noise in industry, building construction, homes, etc.: and legal questions.

The United States by contrast has few laws regarding noise abatement and even those that it has are barely enforced. For example, New York City is one of the cities that has strict noise laws against horn-blowing and even has a legal noise limit for the city of 88 decibels at 150 feet. If you have ever been to New York, I am sure that these laws will come as surprising news.

The final assault on the nation's well-being due to noise and the one which brings you here today is that of aircraft noise. Of all the fields of noise abatement that of air transportation has received the most attention by industry and government due to the obvious severity of the problem. The possible adverse effects of aircraft noise have

shouting and racing in and out of an apartment building. Suddenly from a second-floor window came the crack of a pistol. One of boys spawled dead on the pavement. The victim happened to be Roy Innis, Jr., thirteen, son of a prominent Negro leader, but there was no political implication in the tragedy. The killer, also a Negro, confessed to police that he was a nightworker who had lost control of himself because the noise from the boys prevented him from sleeping. This incident is extreme but worthy of our careful attention due to the implications it has on the worsening human problems which we are now experiencing in our cities.

Until recently the most authoritative voices about noise have come from within the industrial occupations due to the mere fact that noise has been a problem much longer in this area than in any other. Industrial management has become increasingly concerned with the adverse effects of noise on those persons who work under constant exposure to intense levels of noise—and I might add with due reason.

According to Dr. Glorig, director of the Callier Hearing and Speech Center in Dallas, Texas: "Industrial noise is now the most important single cause of hearing loss." Despite numerous research, training and regulatory programs now underway in some industries and in various Federal agencies, and despite the great strides accomplished in responsible noise abatement efforts in the occupational fields, there is still need for a vast amount of education in the field of occupational noise. For instance, B. F. Goodrich estimates that the total market for accoustical goods and products will reach $875 million by 1970, which if one takes into account all that this comprises is a very paltry sum.

Another example of the need for increased emphasis placed on occupational noise is the The United States Air Force recommends ear defenders when personnel are exposed to 85 decibels in the 300-4800 frequency range. The American Standards Association has suggested permissible daily quotas of exposure to noise which they suggest should protect the worker from hearing loss. Over an eight hour working day they suggest a limit of 85 decibels at any frequency range above 700 cycles per second. In the Walsh-Healey Public Contracts Act the Federal government has adopted 90 decibels at any frequency range as a permissible safe occupational noise level.

Only recently has there been concern about the entire realm of urban and community noise although millions of Americans are affected each day by the repercussions of this type of noise. As Dougherty and Welsh commented in "Community Noise and Hearing Loss":

"The saving quality heretofore has been that community noise has been a short-term exposure as compared to an 8 hour day period in industry. As the power use of both home and street increase, steps must be taken to limit the noise output. Otherwise, total timed exposure will exceed industrial standards that actually rely on regular audiograms to prevent severe hearing loss."

Indeed the din in the cities at times far exceeds the noise levels considered "safe" for an occupational situation. A noise level of 100 decibels was once recorded on the Avenue of the Americas in New York City where the Transit Authority was building the extension of the 6th Avenue subway. Construction is perhaps the most irritating source of noise to the urbanite and the problem is intensified when once we realize that there are virtually no legal controls on the amount of noise that can emanate from a construction site. In the absence of any been recognized for several years. In 1952 the Dolittle Report pointed out that "positive efforts should be continued by both government and industry to reduce or control aircraft noise nuisance to people on the ground and that substantial reduction of such noise is practicable."

Such firms as Pratt and Whitney, General Electric and Boeing have been involved for some years in the research and development of a "quiet" engine. According to sources within the field we are five years away from a prototype which when operational will only reduce the perceived noise level at take-off and landing by 10 percent. The problem in this area is not so much a matter of money as lack of available technology. The sound of a jet taking off is approximately 130 decibels which is also the estimated maximum noise bearable to human ears. A reduction of 10% will bearly scratch the surface of the noise problem in this area unless there is a major technological breakthrough.

Therefore in combating aircraft noise we also need to pursue abatement efforts in the aspects of aircraft operations and apply methods of compatible landuse around the airports. In the realm of flight patterns, airport design and placement, guaranteed buffer zones, adequate soundproofing of buildings in and around airports, extension of runways, legal controls, and so on, joint action will have to be taken by the Federal government, the airlines, and the community. With over 98% of our airports owned by some level of state government, it will be primarily up to the local government and the airport operators of the same to effect noise abatement controls. In addition airport operators should share the responsibility of enforcing the new Federal Aviation Agency noise standards to be announced this month

[p. S17778]

and closely coordinating local efforts with such programs as the Aircraft Noise Alleviation Program established under the F.A.A. in 1961.

For examples of innovative noise control efforts I recommended such programs as that taken in the Los Angeles area in which community efforts and pilot programs have been established to abate noise at the Los Angeles International Airport. The Port of New York Authority has also carried out extensions costing several million dollars to the three runways at New York's Kennedy International Airport solely out of noise abatement considerations. Dulles International Airport in Washington is a good example of how zoning laws and design can be effectively employed to control noise levels emanating from aircraft.

But despite these examples, the fact remains that there is much left to do before you can successfully cope with aircraft noise. Your recognition of this fact has brought you here today. There are many questions which must be answered before actual work can even begin. The most important of these is funding of noise abatement efforts. Who is responsible? Should we ever obtain an operational "quiet" engine, the estimated cost of retrofitting our four engine commercial jets has been upwards of $300 million. This is perhaps the most touchy issue which will face you in your efforts to combat jet noise for the costs are formidable and the responsibility ill-defined.

Another problem of considerable concern is that of the sonic boom. Until recently the shock waves from the sonic boom was confined to occasional military flights scheduled to fly over unpopulated areas of the United States. However, since President Nixon's request for $96 million for the current fiscal year ending June 30, 1970 in order to finance the start of construction of two SST prototype aircraft it now apepars that within the next 10 years we will be subjected to the just beginnings. What is needed are guaranteed standards for the man on the street, on his job, or in his home. In this category I would like to mention the Walsh-Healey Public Contracts Act which was signed into effect by Secretary of Labor Shultz on May 17, 1969. This Act provides for a limit of on-the-job noise levels at 90 decibels at any frequency. This regulation only applies to firms that have a $10,000 or better contract with the Federal government during the course of one year. The Walsh-Healey Act is a step in the right direction but again it is only a beginning. It only affects certain segments of workers and sets as a standard a noise level which is of debatable safety for an occupational level.

The real question at hand in the consideration of the noise level of our society is whether we are going to preserve the basic amenities of civilized life in the onslaught of technological advance.

As one noted figure in the noise abatement field, William H. Ferry, once said: "We have been neither interested nor successful in controlling noise because we have been neither interested nor successful in coping with technology."

Some 60 years ago Robert Koch, a bacteriologist and Nobel Laureate predicted: "The day will come when man will have to fight merciless noise as the worst enemy to his health."

That day is not so far away. The problem must be faced now before it is beyond our control. So I offer a few suggestions from my meager knowledge of the problem of what may prevent a continuation of the insult of noise on the future sensibilities of our nation. The problem of our "cacophonic republic" requires education, public awareness, increased research and greater application of economical acoustical materials, and a great deal of cooperation and coalition of effort between industry, business, government, health officials and com-

of pollution which has been shown to be very harmful yet has received little public attention: noise.

Recently the Environmental Protection Agency was formed in which the various problems of our environment could be focused and possible solutions recommended. However, there was no provision made to deal with noise abatement with this agency. Today, consequently, I am introducing legislation which would create an Office of Noise Abatement within the Environmental Protection Agency. This office would help coordinate research on Federal, State, and local levels, provide grants for such research, help provide information regarding noise abatement to interested parties, and make recommendations regarding the promulgation of standards.

Mr. President, I am confident that the legislation I am introducing today will receive close scrutiny by the various Federal agencies which are already directing their attention to the problems of noise as well as the Environmental Protection Agency. And I am assured that we will be able to make an Office of Noise Abatement a reality through our mutual effort.

There is a bumper sticker now circulating which says:

"Eliminate Pollution Before Pollution Eliminates You."

Immediately we will think of studies which threaten a lack of water by 1980 and conjure up the words of California scientists stating that within 50 years their State will be uninhabitable for any form of life. Or we hold our breath for a moment remembering that 142 million tons of smoke and noxious fumes are dumped into the atmosphere each year. Momentarily we feel brief panic and then for one reason or another, we forget the threatening words of the bumper sticker and go about our daily duties in a comfortable shield of self-deception and false security. Unfortunately such an attitude has now

sound of commercial sonic booms. I am opposed to the development of this aircraft. Aside from the obvious criticism of low cost-benefit considerations, I find it difficult to justify the vast noise disturbance of this aircraft in light of the small domestic value derived. The plane has no defense value, will cost the government a total of $1.29 billion, out of a total development cost of $1.51 billion, and its flights have been estimated to disturb 20 million groundlings every time the SST flies from coast to coast.

The repercussions of the noise problem have just begun to be understood and much has been done to alleviate the noise onslaught on our environment. For instance, New York City has a law requiring walls soundproof enough to reduce any airborne noise passing through by 45 decibels. Some construction companies have proved that buildings can be constructed quietly, by muffling blasting by special steel mesh blankets, welding instead of using the horrendous racket of riveting or bolting. New machines have been offered on the market which have a vast reduction in decibel rating over their old predecessors such as a new compressor which reduces the decibel level from 110 to 85 decibels and a new paving breaker that has had its sound reduced by ⅔.

New York, California, New Jersey, Minnesota, and other states have voted or have pending various legislation on noise abatement particularly in the realm of vehicular noise. Numerous local ordinances deal with specific noise problems of their area offering such things as prevention of transistor playing in public areas, zoning laws, etc. Some states have legislation which prohibits vehicles on its public highways that exceed certain established noise levels for that particular vehicle.

All of these are good beginnings but they cannot be assessed as anything more than munity groups in order to find and carry out solutions to local, regional and national noise problems.

We need a uniform noise control standards for all industrial and office workers . . . a Walsh-Healey Public Contracts Act of more encompassing and more rigorous standards.

We need to educate consumer demand that will call for quieter jobs and products in order to make it desirable for industry to compete to produce both at less cost.

We need the City Code level to handle such noise sources as garbage collection, construction, loud speakers, and motor vehicles. We need a regional approach to the research and development or programs directed toward the alleviation of the noises that plague particular areas of the United States. Lastly we need the full cooperation of the Federal government in assisting, coordinating and financing these efforts to provide a quieter environment.

As Dr. William H. Steward of the Public Health Service once stated: "Those things within man's power to control which impact upon an individual in a negative way, which infringe upon his integrity, and interrupt his pursuit of fulfillment, are hazards to the public health."

Noise can and must be controlled as a danger to the public health and economy, but above all else we must commit ourselves to the control of the noise in our society on the basis of civilized standards.

[From the CONGRESSIONAL RECORD, Nov. 24, 1970]

S. 4538—INTRODUCTION OF THE NOISE ABATEMENT ACT OF 1970

Mr. HATFIELD. Mr. President, as the country has become increasingly aware of the growing threat to our environment, attention has been primarily focused on air and water pollution. But there is another form brought us to a situation in which the rapidly deteriorating quality of our environment is the most hazardous challenge to not only our health and well-being but to our very lives and those of our children and grandchildren.

Environmental pollution may not pose the immediate destruction that nuclear war does, but I might remind you that the effects are the same and just as lasting. And I might remind you that destruction at the hands of our environment is as immediate as your and my lifetime. And finally, I might remind you that lack of inhabitable land, lack of food, lack of good water to drink and good air to breathe are the very conditions under which men become desparate and resort to any and all means to preserve their survival. It is with these thoughts in mind that I state my firm conviction that pollution—all forms of pollution: air, water, and noise pollution, overpopulation, land and soil pollution—is the most challenging and the most crucial problem facing the man of the 20th century. And it is with these thoughts in mind that I firmly believe that if we do not meet this problem with all the creativity and ingenuity of our age, then within a very short time nothing else will matter, for there will be nothing else to worry about.

Your concern with environmental pollution has brought you here today in order to form an effective citizen's group to combat this onslaught on our planet before it is indeed too late. Your special concern is with the assault of noise pollution on our society and in your recognition of noise as a pollutant you have established yourselves as somewhat pioneers in combating the effects of noise on our society. It was, therefore, an honor to be invited to speak at this organizational meeting of the Noise Abatement Council of America. Had such groups been instrumental in educating the public to

appreciate the inevitable results of uncontrolled air and water pollution and in affecting remedial action to combat these problems even 10 years ago then we would not be faced with the present national crisis in these areas. Today let us pledge ourselves to the task of preventing noise becoming another uncontrolled threat to our existence.

The effects of noise, although long a problem, have only begun to receive the well-founded concerns of government, health, industrial, and community organizations. We are already far behind the rest of the world in appreciating the scope of the problem. For our backwardness in the field of noise abatement the United States is now the noisiest country on this planet, and frankly, I hate to think that we are now carrying this lack of respect for civilized standards to other planetary bodies. Basically, noise pollution is reaching crisis proportions in the United States and I think that it is time that all of us wake up to this fact.

We should be concerned with noise as a problem because for over a century noise exposure of sufficient intensity and duration has been recognized to produce sensorineural hearing loss. But in spite of this knowledge, an overexposure to excessive noise is the major cause of hearing loss in the United States today. In fact it is estimated that 10 to 20 million people in the United States have some degree of hearing impairment.

Everyone realizes that if he is exposed to a very loud noise such as an explosion he may very likely wind up deaf—at least temporarily. What is not so apparent is that the effect of noise is cumulative; it produces as Dr. Leo Beranek, whose work is acoustics is international in scope, an "acoustic fatigue." Repeated moderate noise builds up to produce the same effect as would a single loud noise. And even more important is the fact that repeated noise is the only type, short of a shattering explosion, that produces permanent hearing loss. The importance of this compensation payments, lost production and decreased efficiency due to noise is estimated at well over $4 billion per year. In relation to business a World Health Organization report states that before 1939 office noise was costing U.S. business $2 million per day through inefficient work. Today that figure is $4 million. The psychological and physiological effects of noise are difficult to assess but the correlation between noise and such things as sleep disturbances, hypertension due to the constant response of hormonal and neurological mechanisms to noise stress, interference with basic communication, the loss in efficient performance and even damage to property must be counted as a very real and a very enormous threat to our wellbeing, not to mention the economic repercussions.

The effects of noise cannot be fully appreciated until we have more thorough studies in the field. One effect which needs to be especially explored by sociologists and criminologists is referred to in a recent Fortune magazine article. As related by Fortune:

"In the Bronx borough of New York City one evening last spring, four boys were at play, shouting and racing in and out of an apartment building. Suddenly from a second-floor window came the crack of a pistol. One of the boys sprawled dead on the pavement. The victim happened to be Roy Innis, Jr., 13, son of a prominent Negro leader, but there was no political implication in the tragedy. The killer, also a Negro, confessed to police that he was a nightworker who had lost control of himself because the noise from the boys prevented him from sleeping."

This incident is extreme but worthy of our careful attention due to the implications it has on the worsening human problems which we are now experiencing in our cities.

Until recently the most authoritative voices about noise have come from within the industrial occupations due to the mere fact that noise has been a problem much longer in this area than in any other. Industional noise levels. The American Academy of Ophthalmology and Otolaryngology states that our present knowledge of the relation of noise exposure and hearing loss is much too limited to propose safe amounts of exposure. However, the academy recommends noise-exposure control and tests of hearing if there is habitual exposure to continuous noise at 85 decibels at a frequency of 300–1,200 cycles per second. Noise is measured in a dimensionless unit called the decibel which is used to describe the levels of acoustical pressure, power, and intensity.

The decibel expresses a logarithmic ratio between two sounds. In other words, the difference between a noise with a decibel rating of 60 and that with a rating of 70 is a relative increase of 10 times the lower level. The frequency of noise expressed in cycles per second is useful for rating noise hazards since some frequencies are more likely to cause hearing damage than others, with high pitched sounds more annoying than low pitched sounds. The British Medical Society recommends hearing conservation measures when noise exceeds 85 decibels in the 250–4,000-cycles-per-second range.

The U.S. Air Force recommends ear defenders when personnel are exposed to 85 decibels in the 300–4,800 frequency range. The American Standards Association has suggested permissible daily quotas of exposure to noise which they suggest should protect the worker from hearing loss. Over an 8-hour working day they suggest a limit of 85 decibels at any frequency range above 700 cycles per second. In the Walsh-Healey Public Contracts Act the Federal Government has adopted 90 decibels at any frequency range as a permissible safe occupational noise level.

Only recently has there been concern about the entire realm of urban and community noise although millions of Americans are affected each day by the repercussions of this type of noise. As Dougherty and Welsh commented in "Community Noise and Hearing

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is readily seen when one is considering the harmful effects of exposure to daily occupational noise.

Another matter of some concern is that the noise level of the United States is increasing at an astonishing rate. Over the past 25 years the average increase in noise level has been at one decibel per year. When one considers that damage to the ears can occur at sustained exposure to the ranges around 85 decibels and over, and given our present noise levels, it will not be too many years before noise levels in the United States become lethal. To quote Dr. Vern O. Knudsen, physicist and former chancellor of the University of California:

"If the noise we make keeps increasing at the present rate, it will be as deadly in thirty years in some of our downtown cities as were the ancient Chinese tortures for executing condemned prisoners."

We know, of course, that the most pronounced physical effect of noise is damage to the ear. Exposure to intense noise over varying durations causes partial and in some cases permanent hearing loss due to actual cell damage in the organ of the Corti located within the cochlea of the inner ear.

But noise has much farther reaching effects than just hearing damage. As Paul E. Sabine stated even back as far as the March 1944 issue of the American Journal of Public Health:

"There is a wealth of reliable data from medical sources in support of the Statement that sustained exposure to noise is a contributing factor in impaired hearing, chronic fatigue that lowers bodily resistance, neurasthemia, increased blood pressure, and decreased working and mental efficiency and that noise should rightfully be classified as an occupational hazard along with gases, fumes, dust, toxic liquids, and bacteria."

To put this into, if nothing else, economic perspective, the total cost to industry in trial management has become increasingly concerned with the adverse effects of noise on those persons who work under constant exposure to intense levels of noise—and, I might add, with due reason.

According to Dr. Glorig, director of the Callier Hearing & Speech Center in Dallas, Tex.:

"Industrial noise is now the most important single cause of hearing loss."

Despite numerous research, training, and regulatory programs now underway in some industries and in various Federal agencies, and despite the great strides accomplished in responsible noise abatement efforts in the occupational fields, there is still need for a vast amount of education in the field of occupational noise. For instance, B. F. Goodrich estimated that the total market for acoustical goods and products would reach $875 million by 1970, which if one takes into account all that this comprises is a very paltry sum.

Another example of the need for increased emphasis placed on occupational noise is the fact that permanent hearing loss caused by excessive exposure to noise is now a recognized occupation hazard and is compensable *in only 35 States. I am always reminded of* the basic lack of awareness in this field by an unfortunately true story which occurred when one of my aides was touring a textile factory in the South. When he commented on the high level of noise to which the workers were subjected, the manager hastened to assure him that immediate efforts were being made to correct the unpleasant conditions.

"Next week the factory is playing country-western music over the loudspeakers at a level which will block out the noise of the factory."

The noise of our industries is put into further perspective when one considers them in light of "safe' noise levels. There are differences of opinion about permissible occupa-

Loss":

"The savings quality heretofore has been that community noise has been a short-term exposure as compared to an 8-hour day period in industry. As the power use of both home and street increase, steps must be taken to limit the noise output. Otherwise, total timed exposure will exceed industrial standards that actually rely on regular audiograms to prevent severe hearing loss."

Indeed the din in the cities at times far exceeds the noise levels considered safe for an occupational situation. A noise level of 100 decibels was once recorded on the Avenue of the Americas in New York City where the transit authority was building the extension of the Sixth Avenue subway. Construction is perhaps the most irritating source of noise to the urbanite and the problem is intensified when once we realize that there are virtually no legal controls on the amount of noise that can emanate from a construction site. In the absence of any forms of control the consequences are logical—existing knowledge for noise control is not even applied.

Noise control costs money, and it is not reasonable to ask sympathetic construction firms to invest in noise control only to let unsympathetic firms underbid them of jobs by avoiding the noise control costs. Air compressors, pneumatic drills, power saws, concrete mixers and other machines involved in the construction or demolition of buildings are permitted in some urban areas between 7 a.m. and 6 p.m., 6 days a week and at night with special permit. Combined with the poor soundproofing in modern apartments, the sounds of congested traffic which can reach upwards of 90 decibels, and the multitudinous other sounds of civilized living, the city dweller is caught in the midst of a cacophonic catastrophe.

Europe and such countries as Russia and Japan have for some time had strictly en-

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forced noise abatement laws, including zoning and construction measures and national councils like the Swiss Anti-Noise Commission which deals with the basic medical, acoustic, and technical questions of road, rail, and water traffic; aircraft noise, noise in industry, building construction, homes, et cetera; and legal questions.

The United States by contrast has few laws regarding noise abatement and even those that it has are barely enforced. For example, New York City is one of the cities that has strict noise laws against horn blowing and even has a legal noise limit for the city of 88 decibels at 150 feet. If you have ever been to New York, I am sure that these laws will come as surprising news.

The final assault on the Nation's well-being due to noise and the one which brings you here today is that of aircraft noise. Of all the fields of noise abatement that of air transportation has received the most attention by industry and Government due to the obvious severity of the problem. The possible adverse effects of aircraft noise have been recognized for several years. In 1952 the Doolittle report pointed out that:

"Positive efforts should be continued by both government and industry to reduce or control aircraft noise nuisance to people on the ground and that substantial reduction of such noise is practicable."

Such firms as Pratt & Whitney, General Electric, and Boeing have been involved for some years in the research and development of a quiet engine. According to sources within the field, we are 5 years away from a prototype which when operational will only reduce the perceived noise level at takeoff and landing by 10 percent. The problem in this area is not so much a matter of money as lack of available technology. The sound of a jet talking off is approximately 130 decibels which is also the estimated maximum noise bearable to human ears. A reduction of 10 percent will barely scratch the surface of the even begin. The most important of these is funding of noise abatement efforts. Who is responsible? Should we ever obtain an operational "quiet" engine, the estimated cost of retrofitting our four engine commercial jets has been upwards of $300 million. This is perhaps the most touchy issue which will face you in your efforts to combat jet noise for the costs are formidable and the responsibility ill defined.

Another problem of considerable concern is that of the sonic boom. Until recently the shock waves from the sonic boom was confined to occasional military flights scheduled to fly over unpopulated areas of the United States. However, since President Nixon's request for $96 million for the current fiscal year ending June 30, 1970, in order to finance the start of construction of two SST prototype aircraft it now appears that within the next 10 years we will be subjected to the sound of commercial sonic booms. I am opposed to the development of this aircraft. Aside from the obvious criticism of low cost-benefit considerations, I find it difficult to justify the vast noise disturbance of this aircraft in light of the small domestic value derived. The plane has no defense value, will cost the Government a total of $1.29 billion, out of a total development cost of $1.51 billion, and its flights have been estimated to disturb 20 million groundlings every time the SST flies from coast to coast.

The repercussions of the noise problem have just begun to be understood and much has been done to alleviate the noise onslaught on our environment. For instance, New York City has a law requiring walls soundproof enough to reduce any airborne noise passing through by 45 decibels. Some construction companies have proved that buildings can be constructed quietly, by muffing blasting by special mesh blankets, welding instead of using the horrendous racket of riveting or bolting. New machines have been offered on the market which have neither interested nor successful in coping with technology."

Some 60 years ago Robert Koch, a bacteriologist and Nobel Laureate predicted:

"The day will come when man will have to fight merciless noise as the worst enemy to his health."

That day is not so far away. The problem must be faced now before it is beyond our control. So I offer a few suggestions from my meager knowledge of the problem of what may prevent a continuation of the insult of noise on the future sensibilities of our Nation. The problem of our "cacophonic republic" requires education, public awareness, increased research and greater application of economical acoustical materials, and a great deal of cooperation and coalition of effort between industry, business, government, health officials and community groups in order to find and carry out solutions to local, regional, and national noise problems.

We need a uniform noise control standard for all industrial and office workers—a Walsh-Healey Public Contracts Act of more encompassing and more rigorous standards.

We need to educate consumer demand that will call for quieter jobs and products in order to make it desirable for industry to complete to produce both at less cost.

We need the city code level to handle such noise sources as garbage collection, construction, loud speakers, and motor vehicles. We need a regional approach to the research and development of programs directed toward the alleviation of the noise that plague particular areas of the United States. Lastly we need the full cooperation of the Federal Government in assisting, coordinating and financing these efforts to provide a quieter environment.

As Dr. William H. Steward of the Public Health Service once stated:

"Those things within man's power to control which impact upon an individual in a negative way, which infringe upon his integ-

noise problem in this area unless there is a major technological breakthrough.

Therefore, in combating aircraft noise we also need to pursue abatement efforts in the aspects of aircraft operations and apply methods of compatible landuse around the airports. In the realm of flight patterns, airport design and placement, guaranteed buffer zones, adequate soundproofing of buildings in and around airports, extension of runways, legal controls, and so on, joint action will have to be taken by the Federal Government, the airlines, and the community. With over 98 percent of our airports owned by some level of State government, it will be primarily up to the local governments and the airport operators of the same to effect noise abatement controls. In addition airport operators should share the responsibility of enforcing the new Federal Aviation Agency noise standards to be announced this month and closely coordinating local efforts with such programs as the aircraft noise alleviation program established under the FAA in 1961.

For examples of innovative noise control efforts I recommend such programs as that taken in the Los Angeles area in which community efforts and pilot programs have been established to abate noise at the Los Angeles International Airport. The Port of New York Authority has also carried out extensions costing several million dollars to the three runways at New York's Kennedy International Airport solely out of noise abatement considerations. Dulles International Airport in Washington is a good example of how zoning laws and design can be effectively employed to control noise levels emanating from aircraft.

But despite these examples, the fact remains that there is much left to do before we can successfully cope with aircraft noise. Your recognition of this fact has brought you here today. There are many questions which must be answered before actual work can a vast reduction in decibel rating over their old predecessors such as a new compressor which reduces the decibel level from 110 to 85 decibels and a new paving breaker that has had its sound reduced by two-thirds.

New York, California, New Jersey, Minnesota, and other States have voted or have pending various legislation on noise abatement particularly in the realm of vehicular noise. Numerous local ordinances deal with specific noise problems of their area offering such things as prevention of transistor playing in public areas, zoning laws, et cetera. Some States have legislation which prohibits vehicles on its public highways that exceed certain established noise levels for that particular vehicle.

All of these are good beginnings, but they cannot be assessed as anything more than just beginnings. What is needed are guaranteed standards for the man on the street, on his job, or in his home. In this category I would like to mention the Walsh-Healey Public Contracts Act which was signed into effect by Secretary of Labor Shultz on May 17, 1969. This act provides for a limit of on-the-job noise levels at 90 decibels at any frequency. This regulation only applies to firms that have a $10,000 or better contract with the Federal Government during the course of 1 year. The Walsh-Healey Act is a step in the right direction but again it is only a beginning. It only affects certain segments of workers and sets as a standard a noise level which is of debatable safety for an occupational level.

The real question at hand in the consideration of the noise level of our society is whether we are going to preserve the basic amenities of civilized life in the onslaught of technological advance.

As one noted figure in the noise abatement field, William H. Ferry, once said: "We have been neither interested nor successful in controlling noise because we have been rity, and interrupt his pursuit of fulfillment, are the hazards to the public health."

Noise can and must be controlled as a danger to the public health and economy, but above all else we must commit ourselves to the control of the noise in our society on the basis of civilized standards.

[From the CONGRESSIONAL RECORD, June 21, 1971]

NOISE CONTROL ACT OF 1971 AMENDMENT

AMENDMENT NO. 216

(Ordered to be printed and referred, jointly, to the Committees on Commerce and Public Works.)

Mr. HATFIELD, for himself, Mr. HART, and Mr. CRANSTON, submitted an amendment intended to be proposed to the bill (S. 1016), to control the generation and transmission of noise detrimental to the human environment, and for other purposes.

Mr. HART. Mr. President, the evidence is accumulating that yet another form of pollution has reached serious levels. I refer to noise. Noise is more than a nuisance: Excessive noise, I am told, is a serious hazard to us physically, mentally, and economically. Too much noise can result in temporary, or even permanent, damage to our hearing Nighttime noise disturbs sleep, while noisy places of work reduce the efficiency of workers. Noise can also influence property values as anyone who lives on the perimeter of an airport or foundry can tell you.

Congress took a major step last year when it created the Office of Noise Abatement and Control in the Environmental Protection Agency. S. 1016, the Noise Control Act of 1971 proposed by the administration, is a further important step in controlling this problem. The President is to be commended for his efforts to bring the seriousness of this problem to the attention of the public and

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for his commitment to promote an environment which is free from noise that jeopardizes the health and welfare of the citizens of this Nation.

As I join with the distinguished Senators from Oregon (Mr. Hatfield) and California (Mr. Cranston), to introduce several amendments to S. 1016, I think we should pay tribute to our colleague in the House of Representatives, the distinguished Congressman from New York (Mr. Ryan), who has long been a leader in this field. We thank him for the considerable guidance he has given us in developing our thoughts on noise pollution and its control.

The amendments to S. 1016 which we offer today are, we believe, in harmony with the stated goal of that bill. The amendments requiring the Administrator of the Environmental Protection Agency to set certain noise emission standards within a specified time are designed merely to help him implement the original intent of the law. The addition of a citizens suit provision similar to that in the Clean Air Act amendments passed last year is meant to provide an additional vehicle for the enforcement of noise standards. The citizen will be further benefited, it is hoped, by the requirement that products used in and around the home have labels telling the actual level of noise generation. Thus the consumer will be able to choose products on the basis of their noise generation characteristics as well as price, color, and so forth.

Mr. President, the time has arrived to take positive action toward controlling undesirable noise. The administration has come forward with a very useful proposal. The House began hearings on that proposal and several others last week. The Environment Subcommittee of the Senate Committee on Commerce is scheduled next week to begin consideration of S. 1016 and the amendments introduced today. Let us hope that the momentum of our present efforts will not be the same harmul effects upon human hearing.

Loss of hearing, however, is not the only concern when dealing with the problem of increasing noise levels. We are all familiar with the annoyance properties of noise—conversations punctuated with the whir of a blender, television programs distrupted by the passing motorcycle, and a Saturday afternoon nap disturbed by the neighbor's power lawn mower or power saw.

What we do not always realize is that these "irritations" should be regarded as health hazards as well. Although it is more difficult to measure, there is growing evidence that the levels of noise to which urban Americans have grown accustomed are actually capable of inducing a variety of physical, and psychological ills.

Another matter of great concern is that the noise level of the United States is increasing at an astonishing rate. Over the past 25 years the average increase in noise level has been at one decibel per year. When one considers that damage to the ears can occur at sustained exposure to the ranges around 85 decibels and over, and given our present noise levels, it will not be too many years before noise levels in the United States become lethal. To quote Dr. Vern O. Knudsen, physicist and former chancellor of the University of California: "If the noise we make keeps increasing at the present rate, it will be as deadly in thirty years in some of our downtown cities as were the ancient Chinese tortures for executing condemned prisoners."

It is my understanding that the witnesses will testify to the extent and character of this growing problem in some detail so I will not dwell further on this matter at this time.

For a number of years I have been personally involved in trying to bring the noise problem to the attention of American people and my colleagues in Congress. I should at judgment, serve to strengthen the bill. By setting reasonable time limits for the establishment and enforcement of standards and requiring rather than authorizing the setting of standards, the Amendment would insure that Americans will to be subject to any unnecessary delay in realizing the benefits of this legislation. The Amendment would also serve to guarantee the private citizen recourse against the detrimental effects of noise by allowing EPA to initiate legal action and providing for citizen suits.

I hope that these hearings will prove fruitful in bringing to light the nature of the noise problem and the need to enact this legislation.

Mr. MUSKIE. Mr. President, I call up my amendment No. 1740 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1740 is as follows:

On page 63, line 2, following the word "the" insert the following phrase: "sale for use,".

Mr. MUSKIE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, may I say to my colleagues that we have a 1-hour limitation. I think I can dispense

lost, but will result in the swift passage of legislationsnecessary to protect the citizens of this Nation from the hazards of excessive noise.

OPENING STATEMENT. SUBCOMMITTEE ON ENVIRONMENT

(By Senator MARK O. HATFIELD)

The national effort to restore our deteriorating environment has unfortunately neglected one of our most devastating and most common pollutants—noise. Excessive noise threatens not only our emotional well being, but as these hearings will establish, noise can be detrimental to our physical health as well.

For too long, the ecological movement has focused only upon the more obvious forms of air and water pollution. While most Americans are incensed because they are deprived of clean lakes and streams, and rightfully deplore the blight of smog, these same Americans are unaware of the toll which excessive noise extracts from their lives.

For over a century it has been known that noise exposure of sufficient intensity and duration producers hearing loss. Yet, we have disregarded known facts about noise and advanced to the point where we now have the dubious distinction of being the noisiest nation in the world. In fact, in the United States it is estimated that 10 to 20 million people have some degree of hearing impairment—the primary cause being overexposure to excessive noise.

It is common knowledge that exposure to a very loud noise such as an explosion, may create deafness—at least temporarily. What is not as well known, but equally as devastating, is that repeated noise builds up to produce the same effect as would a single loud noise. This phenomena, labelled "acoustical fatigue" is capable of producing this point like to place in the Record copies of remarks I made before the Noise Abatement Council in 1969 and a compilation of State and local noise enforcement laws across the country which was prepared in conjunction with the conference. I am told that this compilation and analysis of existing statutes is the only one of its kind and my office has had numerous requests for it from persons dealing with the noise pollution problem.

I commend the Administration and the Environmental Protection Agency for the bill now before this commitee. Too often, legislation follows in the wake of aroused public opinion when the proportions of a crisis have already overwhelmed us. In this case, however, we are presented with the opportunity of being of the offensive—of acting before further damage is done. The Administration has presented us with a bill that would head off what otherwise could be a crisis of the most serious consequences.

The "Noise Control Act of 1971" (S. 1016) if enacted would be a great step forward toward insuring the protection of the human environment from the detrimental effects of noise. This bill allows EPA to co-ordinate all existing Federal noise research and control programs, thus eliminating duplicity and providing for efficient handling of this crucial area.

The Noise Control Act also authorizes EPA to establish criteria for human exposure to noise and authorizes EPA to set standards based upon these criteria to regulate noise emissions on articles which move in commerce. In addition, the bill would authorize EPA to label manufactured goods giving the consumer the benefit of knowing just how noisy a product will be. The bill also provides assistance to states and local governments in establishing noise abatement programs.

The Amendment (216) which has been offered to the Noise Control Act would, in my with my case in 10 minutes, so I would expect that there is a reasonable chance for a vote in 20 or 25 minutes. I do not want to delay the Senate unduly.

This amendment is aimed at one point. It is a point I made in connection with the debate on the previous amendment, and that is that at the present time some 32 States and numerous localities have adopted or are considering measures to control noise levels for the protection of public health in their communities.

The effect of this bill is to severely restrict, if not entirely eliminate, the right to continue to do so; and when we take that right away from them, then we ought to be certain that we are establishing a Federal policy which will do at least as good a job for them as they are now doing for themselves.

Full implementation of the noise control standards we consider today may be 1 or 2 years away, and the levels of control finally adopted will protect the public health and welfare as perceived on a national basis. They will not meet the needs of many State and local communities which have particularly critical noise problems that require more stringent controls.

The States and localities must have the right to adopt more stringent controls and the ability to enforce them. Use controls alone, without controls on sales, will not be adequate. They will force State and local governments to assume heavy enforcement burdens simply because the Congress was not

willing to require manufacturers to carry the responsibility of manufacturing products which could be used in areas with particular noise problems, and if they could not fill those requirements, to be prohibited from selling them in those jurisdictions.

The point of sale is a sensible, and manageable point to control and monitor. When States or localities impose use taxes on various products—as many do to collect revenue—they do not put the burden of paying those taxes on the people using the taxed products in the State, and they do not burden themselves with the job of monitoring all users; they require the seller to collect the tax from the users at the point of sale.

Similarly, States which ban use of dangerous weapons or dangerous drugs direct their heaviest efforts at stopping the sale of such items, because permitting the unfettered sale of dangerous drugs and weapons and then trying to control their use would be futile.

In judging the merits of allowing States to impose controls on the sale as well as the use of products which produce dangerous noise, we should consider the different kinds of enforcement mechanisms which the States will have to use. Our local police and court systems are already heavily overburdened with work. Restricting States and localities to use controls alone will put an even greater burden on the police and court systems—each user will have to be apprehended, processed, fined, and convicted, with all the procedural limitations necessarily attached to the criminal effective or immediate protection of the public health.

The Air Quality Act of 1967, which I sponsored, provided for Federal preemption of the authority to regulate air pollution emissions from new automobiles, except in California. That policy may have had the effect opposite of that which was intended. It appears that the preemption provision of that Act did not cause the auto companies to focus their research efforts and investments on one set of national standards. Rather, the auto companies' efforts have been focused on undermining those national standards.

Again in 1970, preemption was discussed in relation to the regulation of air pollution emissions from aircraft. The Congress decided on a preemption provision effective on enactment and set deadlines for standards to be developed.

Section 231(a) of the Clean Air Act requires that the Environmental Protection Agency must begin an investigation of air pollution from aircraft within 90 days of date of enactment. Within 180 days after commencing that investigation, the Environmental Protection Agency is required to report on the investigation and propose emission standards for any class of aircraft or aircraft engines which contribute to air pollution which endangers public health and welfare. Ninety days thereafter—1 year after enactment—EPA was to issue final regulations. The proposed standards were due nearly 1 year ago, September 27, 1971. Today, no report or proposed standards have been published.

This is a classic example of Federal beyond whatever nationwide controls are enacted.

We have had, Mr. President, a petition from the Legislature of the State of California making the same point to us:

Resolved, That this Legislature respectfully memorializes the Congress of the United States to reject any plan of noise regulation which would prohibit States from adopting standards more stringent than those adopted by the Federal Government.

Normally, Mr. President, I would urge national standards in this field, as I have in air pollution and water pollution, and have supported preemption provisions, because accompanying such preemptions we wrote adequate national policy and adequate national law. In this case, we do not have that situation, and it is for that reason that I have offered these amendments.

This amendment is a very simple one. In section 408(e)(2) of the bill, on page 62, line 23, Senators will find this language:

Subject to paragraph (1) of this subsection, nothing in this section shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products:

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. I yield myself 2 more minutes.

What I would add to that are the words "sale for use," so that the language would read:

To establish and enforce controls on en-

inal law system. Control of sale, involving many fewer persons and products for which levels of noise can be identified before the products reach the stream of trade, is a much simpler method of enforcement.

The protection of manufacturers of noisy products should not be the prime public interest goal of Federal action to control noise. In this connection, let me read a portion of the statement of Mr. Nicholas C. Yost, the deputy attorney general of the State of California in charge of noise, when he testified before my subcommittee on noise control:

> The arguments for preemption are not made by the advocates of more stringent abatement of noise pollution. They are made by manufacturers who dislike the multiplicity of labels that confront them in a diverse nation. Their arguments concerning the burden created for them in different standards seems specious. Nobody is telling a manufacturer that he must sell in a particular State. If he wants to sell there, he can meet the standards the people of that State choose to adopt. As a practical matter no State or locality will set a standard so low that a necessary item cannot be sold. If that item can be made quieter, why should not the people of that State be enabled to insist upon it.

While it may be argued that preemption provisions are necessary and that they will protect public health because the Federal standards will be sufficiently strict to meet the concerns of most local communities. I must point out that some of our recent congressional experience with preemption has not resulted in such preemption leading to Federal failure to protect public health. The Federal Aviation Administration has undoubtedly discouraged active efforts by the Administrator. And the efforts that the Environmental Protection Agency has made have run aground in the Office of Management and Budget.

Therefore, in consideration of the pending legislation, I expressed reservations regarding a broad preemption provision for product and aircraft emission standards.

Federal noise pollution responsibility will be new; little significant authority or responsibility exists. Conversely, a number of States have regulatory programs which impose enforceable emission controls on noisy products, both at the point of sale and the point of use.

In my judgment, this bill falls short for that reason. That is why I offered the amendment which has just been defeated, and I now offer this amendment as another way of strengthening the hand of local authorities.

Let me read something that was said by the speaker of the Assembly of the State of California with respect to this question before our committee. He said:

> I urge you to recommend to the full Senate committee that any language preempting California's enforcement role in noise pollution be deleted from the legislation.
>
> Make no mistake about it, I am here today to endorse progress in sound suppression at the Federal level.
>
> But, should it be necessary, I am also here to begin a campaign to make certain that Washington does not limit our ability to go vironmental noise through the licensing, regulation, or restriction of the sale for use, use, operation, or movement of any product or combination of products.

Not permitting localities to control the sale for use is to impose an impossible enforcement problem on local authorities, because the only form of enforcement would be through control of use. I say to my colleagues it is almost impossible for local police departments, beleaguered as they are with their responsibilities today, to run them down and control noise pollution by controlling their use after products have been sold in their jurisdictions.

So I urge, Mr. President, that this very simple amendment be adopted. It is consistent with the exercise of police power. The standard that would be used is the standard of health and welfare which we have already adopted in the Clean Air Act of 1970, and which we adopt whenever it is possible in order to apply enforcement mechanisms to that standard. That is the standard in this case. I urge the adoption of the amendment, and I reserve the remainder of my time.

Mr. PERCY. Mr. President, I ask unanimous consent that Stuart Statler of the staff of the Committee on Government Operations be permitted to be present in the Chamber during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, the intent of the committee is that conflicting

standards on noise emissions from products not be allowed to impose a burden on interstate commerce. Therefore, the bill preempts the setting of noise emission standards enforceable against the manufacturer of a product subject to Federal standards. The committee felt that any imposition of conflicting standards anywhere in the chain of commerce which the manufacturer must meet should not be allowed.

However, the committee intended to make it clear that States and cities, in pursuit of levels of environmental noise thought desirable locally, can impose any burden on the users of products covered by Federal standards which it finds necessary. The committee felt that the language of the bill allowing controls on environmental noise through licensing the use, operation, or movement of products would retain for States and local governments the power to establish and enforce limitations on noise emissions as a condition to use within their jurisdiction. Noise emission limitations imposed through licensing are just as general and easily enforceable as controls on sale. Therefore, the amendment—adding the words "sale for use"—really adds little in practical effect to the powers of State and local governments preserved by the present language of this bill.

Mr. President, I find myself in an interesting position because, having stated what the committee position is, I want the Senate to know that I personally support the language of the Senator from Maine. After having listened to the testi- created by products manufactured after the effective date of the Federal standard, authority to establish noise emission standards for the product enforceable directly or indirectly against the manufacturer is preempted. States and cities, however, retain complete authority to establish and enforce limits on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of a product, or concentration or combination of products.

That, briefly, is the language from the committee report on preemption, on the very question before us. It simply says that, in the manufacture of the product, once a standard has been announced, the Federal Government will preempt, and there will be one standard. There would not be 50 standards for each of the 50 States, or 50 plus however many thousand cities there may be. That would result in an almost impossible situation. It would be a burden on commerce that would be unbearable and unrealistic, and could not be accepted.

That would be the effect if the amendment offered by the Senator from Maine is accepted. On the other hand, once a product is manufactured under the national standard and goes into commerce, and is located in a city, the local authorities can regulate its use.

For example, a locality can say at what times, if any, it may be used in the vicinity of the hospital, or in any other place, or at what hours of the night or day it can be used, and can set any other regulation or restriction of use af- myself 2 minutes for summation, and then I will be prepared to yield back the remainder of my time, if the Senator from California is willing to do so.

As the Senator from Delaware knows, I have always been for preemption provisions in our environmental laws whenever I felt that we had done an effective job of replacing local legislation with Federal legislation. The Senator and I have been together on that in air pollution and water pollution legislation for the last 8 to 10 years, and we will continue to be.

Where we disagree now is on this simple point: That in this legislation we preempt without substituting effective Federal legislation.

At least 32 States and many localities are moving actively in this field. Federal noise pollution responsibility is new, and little significant authority or responsibility exists. Conversely, a number of States have regulatory programs which impose emission controls on noisy products which controls are enforceable, both at the point of sale and the point of use.

I cannot support Federal preemption which protects product manufacturers and the air transportation industry without effective regulatory programs which will enhance the quality of the environment. Substitution of Federal law for State law without assurance that public health will be protected is, in my judgment, poor public policy.

For that reason, I urge the adoption of this amendment.

Mr. BOGGS. Mr. President, will the

mony at our legislative hearing on S. 3342 in California from the Speaker of the House and from an assistant attorney general, I feel that this is really a States rights issue. If the States want to impose a tougher standard on noise emissions through a limitation of the sale of a product, then I feel that the States ought to have that right.

I cannot speak for every State. I do know that some States have excellent ongoing programs to reduce the noise of various products that are sold in intrastate and interstate commerce. I would hate to see the Federal Government move in and say that the good work that has been done by the States and by cities and other localities should be ended.

I yield now to the distinguished Senator from Delaware (Mr. BOGGS).

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. TUNNEY. I yield 5 minutes to the Senator from Delaware.

Mr. BOGGS. I thank the distinguished Senator from California, the floor manager of the bill, for yielding.

First, Mr. President, I ask unanimous consent, on behalf of the Senator from Michigan (Mr. GRIFFIN), that David Clanton, of the staff of the Committee on Commerce, be permitted to be present in the Chamber during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOGGS. Mr. President, this bill deals with the responsibilities of the Federal Government and the State and local governments in controlling noise fecting the noise that product produces. Any other approach to it would seem to me very unrealistic and would cause a variety of difficulties.

For example, let us suppose that a jackhammer was being used at a construction site in a city. Construction would have to stop—presuming it could—until a manufacturer could produce a jackhammer that met the city's or the State's particular qualifications. I do not know how unprofitable that would be or how it would run up the cost of the jackhammer for that particular construction job. That is just one example of the extreme results application of this amendment could produce.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOGGS. Mr. President, will the Senator yield to me 2 additional minutes?

Mr. TUNNEY. I yield.

Mr. BOGGS. I think I have expressed the committee's position fairly. The committee tried to balance this situation, tried to place all the authority and as much of the regulatory authority in the local authorities, in the State and local governments, as was possible consistent with a reasonable burden on commerce, while placing in the Federal Government the authority which the Federal Government, in behalf of the whole Nation, could properly exercise.

I think that is the situation presented by the amendment of the distinguished Senator from Maine, and I urge that the amendment be rejected.

Mr. MUSKIE. Mr. President, I yield Senator yield me 2 minutes?

Mr. TUNNEY. I yield.

Mr. BOGGS. Mr. President, the bill provides that manufacturers must use the best available technology. What higher standard could one get for the national requirement on this?

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BOGGS. I yield.

Mr. MUSKIE. As the Senator knows, that provision of the bill rests for its efficacy upon the state of the technology.

Mr. BOGGS. That is correct.

Mr. MUSKIE. What I have complained about in my earlier amendment is that that kind of regulation, depending upon technology, is not supplemented in this bill by adequate controls over cumulative noise levels; and it is because of the inefficacy of the technology that communities have to use supplementary controls of one kind or another to supplement inadequate technology. It is that which I refuse to see preempted, or at least which I refuse to support the preemption of.

Mr. President, I ask unanimous consent that the names of the Senator from California (Mr. CRANSTON) and the Senator from Massachusetts (Mr. KENNEDY) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. TUNNEY. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

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The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. MILLER), the Senator from Delaware (Mr. ROTH), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. FANNIN) and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Oregon would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 30, nays 45, as follows:

[No. 548 Leg.]

YEAS—30

Aiken	Gravel	Packwood
Bayh	Hartke	Pastore
Bentsen	Hollings	Proxmire
Brock	Hughes	Ribicoff
Brooke	Inouye	Smith
Case	Mansfield	Stafford
Church	McClellan	Stevenson
Cranston	Moss	Symington
Eagleton	Muskie	Tunney
Fulbright	Nelson	Williams

NAYS—45

Allen	Bennett	Byrd, Harry F., Jr.
Anderson	Bible	Byrd, Robert C.
Beall	Boggs	Cooper
Bellmon	Burdick	Randolph
Cotton	Humphrey	Schweiker
Dole	Jackson	Scott
Dominick	Javits	Sparkman
Eastland	Jordan, N.C.	Stennis
Ervin	Jordan, Idaho	Stevens
Fong	Long	Taft
Gambrell	Magnuson	Talmadge
Griffin	Mathias	Weicker
Gurney	McGee	Young
Hansen	Montoya	
Hart	Pearson	
Hruska	Percy	

NOT VOTING—25

Allott	Goldwater	Mundt
Baker	Harris	Pell
Buckley	Hatfield	Roth
Cannon	Kennedy	Saxbe
Chiles	McGovern	Spong
Cook	McIntyre	Thurmond
Curtis	Metcalf	Tower
Edwards	Miller	
Fannin	Mondale	

So Mr. MUSKIE's amendment (No. 1740) was rejected.

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1.4a(3)(c) Oct. 13: Considered and passed Senate, amended, pp. S17988–S18014

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

The Senate resumed the consideration of the bill (S. 3342) to amend title IV of the Clean Air Act, and for other purposes.

Mr. TUNNEY. Mr. President, I send to the desk amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments, ordered to be printed in the RECORD, are as follows:

At page 89, line 14, strike out, "emissions from" and insert in lieu thereof, "emission standard for".

At page 89, line 15, strike out, "in his judgment are" and insert in lieu thereof, "he determines are necessary and".

At page 89, beginning at line 18, amend subsection (b)(1) to read as follows:

"Any regulations under this section or amendments thereof, with respect to noise emissions from types of aircraft or aircraft engines, shall reflect the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the reasonableness of the cost of compliance and the demonstrable public benefit that will result, as determined by the Administrator of the Environmental Protection Agency after consultation with the Administrator of the Federal Aviation Administration and shall not be promulgated until the Administrator of the Federal Aviation Administration has determined that such regulations are consistent with the highest degree of safety in air commerce and that any proposed standard, rule, or regulation has been demonstrated to be technologically available for application to types of aircraft, aircraft engine, appliance, or certificate to which it will apply."

At page 90, line 16 after the period insert the following sentence, "Provided, however, that the Administrator of the Environmental Portection Agency, within nine months of the date of enactment of this Act, shall review all noise emission standards, rules, or regulations in effect under section 611 of the Federal Aviation Act, as amended, prior to the date of enactment of the title."

At page 90, line 19 after the word "emissions," strike out, "including the Civil Aeronautics Board, the Federal Aviation Administration, and the Environmental Protection Agency".

At page 91, line 1, strike out "individuals" and insert in lieu thereof "persons".

At page 91, line 13, after the word "title" strike out the comma and insert a period and delete the remainder of the sentence.

At page 91, line 15, strike out "The Administrator of the Federal Aviation Administration", and insert in lieu thereof, "The Secretary of Transportation."

At page 92, line 23, after the word "aircraft" delete the remainder of the sentence and insert in lieu thereof, "unless such type certificates apply all of the standards promulgated by the Administrator of the Environmental Protection Agency prior to the date of issuance of such certificates."

At page 93, line 1, delete section 505.

At page 93, line 12, strike out "506" and insert in lieu thereof, "505".

At page 93, line 13, strike out the words "attempt to", and at line 14, after the word "thereof" insert a period and strike out the remainder of the sentence.

At page 93, line 17, strike out "507" and insert in lieu thereof "506".

At page 93, line 20, after the period insert the following, "Notwithstanding any other provision of this Act, the sole authority to establish aircraft noise emission standards is contained in Part A of this title.".

At page 93, line 22, strike out "508" and insert in lieu thereof "507".

At page 94, line 23, strike out the words "Administrator of the Environmental Protection Agency." and insert in lieu thereof "Administrator of the Federal Aviation Administration, in consultation with the Administrator of the Environmental Protection Agency.".

At page 95, line 12, strike out "may" and substitute "will".

Mr. PEARSON. Mr. President, will the Senator yield to me for about 3 minutes for the purpose of addressing a question to the distinguished manager of the bill?

Mr. TUNNEY. I yield.

Mr. PEARSON. I thank the Senator.

Mr. TUNNEY. Does the Senator wish me to yield on these amendments?

Mr. PEARSON. No.

The PRESIDING OFFICER. The Senator may proceed.

Mr. PEARSON. I intend to be very brief.

Some expression of apprehension has been voiced on the part of airline pilots as to the mechanics of this particular bill, given circumstances which in case

[p. S17988]

of emergency or unforeseen events might require an acceleration of power which, in and of itself, would violate the standards of noise abatement.

Their understanding is that this is something that might be a rather frequent occasion. There is a concern that the procedures under this particular bill would not lend themselves to a review and a determination of extenuating circumstances.

I would like to inquire whether or not, given that sort of hypothetical case, there is protection here and there is not an arbitrary sort of lifting of the certification of any pilot because of these circumstances.

Mr. TUNNEY. I am pleased the Senator has brought this matter up on the floor of the Senate because I would like to make it absolutely clear that it is the intention of the committee to make sure that airline pilots are not going to be subject to administrative penalty or criminal penalty for going over the noise emission levels through use of additional power if the safety of the passengers is involved. In the first place, the Federal Aviation Administration can veto any noise emission regulation which is not consistent with the highest degree of safety in air commerce.

So it is clear that the FAA has the responsibility to make sure that regulations which are developed are safe. This responsibility is given solely to the FAA.

Second, section 415 of the bill specifically provides for judicial review of the final regulations promulgated under section 501 and other sections of the act. to FAA regulations or to the Administrative Procedure Act. Is that correct?

Mr. TUNNEY. Section 415 of this bill does provide for periodical review. However, this act would not affect any rights to a hearing now afforded by the FAA Act. FAA regulations would remain in effect as provided in section 501(b)(2) of this act. The Administrative Procedures Act would also apply.

Mr. PEARSON. I thank the Senator.

Mr. TUNNEY. I wish to thank the Senator for bringing that point up, because I would not want the pilots of this country to feel that the passage of this noise abatement bill was going to subject them to any potential liability if they used their best judgment in trying to protect the safety of their passengers by increasing power.

Mr. PEARSON. I thank the Senator for yielding.

Mr. TUNNEY. Mr. President, I am pleased to offer, on behalf of the Public Works Committee, perfecting amendments to part A of title V of S. 3342, respecting control and abatement of aircraft noise and sonic boom. Through certain small changes in language in some provisions of part A, these amendments would clarify and speed up the long overdue relief from noxious aircraft noise.

The amendments will leave unimpaired the basic regulatory framework for the section: EPA would be lead agency in the setting of aircraft emission standards to meet the health need, with a twofold FAA veto on grounds of technological availability and safety.

In section 501(a)(2), language changes Failure to perform this nondiscretionary duty would subject EPA to citizen suits under section 413.

Names of specific agencies have been deleted from section 501(c) in order that it will be clear that no specific agencies were meant to be excluded. The language in the report on the bill explains the types of measures contemplated by this section.

In section 502, the word "individuals" has been changed to "persons" in order to make it clear that corporations can also be consulted. The last phrase, "together with his recommendations for legislation" has been deleted in order to make it clear that EPA need not submit recommendations for legislation if it determines that no additional legislation is needed. However, it is anticipated that EPA's report will include legislative recommendations, arrived at after consultation with relevant agencies.

In section 503, "Administrator of FAA" is changed to "Secretary of Transportation" in order to comport with the existent regulatory framework. Of course, implementing standards and inspections would be carried out by the FAA, which has the appropriate powers.

Section 504 is clarified to refer to "any original" type certificate, and to require all such type certificates to conform to applicable regulations. It is thought that process set in motion in 501(a)(2) and expedited by the changes in language in 501(b)(1) will result in thoroughly considered and adequate standards and that, when promulgated, such standards must apply to the issuance of original type

Thus, if the Airline Pilots Association feels that the regulations as promulgated do not protect their interests, there is a right for judicial review. Third, the Administrative Procedure Act would also apply. And, fourth, the 14th amendment to the Constitution requires due process, and, thus, it would be unconstitutional to deny a person a hearing if he were charged with violation of a regulation.

Mr. PEARSON. The Senator's statement is most helpful. It will allay some of the fears that have been expressed.

As I understand the Senator from California, the procedures for review are to come out of FAA regulations existing now or to be promulgated by them.

Mr. TUNNEY. The procedures for review are included in section 415 of the act. The APA and the 14th amendment also apply.

Mr. PEARSON. Either.

Mr. TUNNEY The FAA would have the right to veto regulations promulgated under the act if they are inconsistent witht the highest degree of safety. The FAA should guarantee that regulations, which become effective, assure that airline pilots can fly safely. If the Airline Pilots Association is not satisfied with specific final regulations, the bill provides for judicial review of the regulation, so that they could make their claim in a court of law. In addition, the pilot will be entitled to a full hearing as provided by the Administrative Procedure Act and to constitutional protection.

Mr. PEARSON. The hearing mechanism is not in this bill covering that kind of situation; is it? It would reflect back would insert the requirements that the health levels set in the EPA standards be "necessary" in addition to "adequate" to meet the health needs. This determination is made by EPA and is consistent with the intent of the committee.

In section 501(b)(1) a certain ambiguity respecting a joint determination by EPA and FAA on technology and cost of compliance has been cleared up. The amendment clarifies the fact that the determination is made by EPA, after consultation with FAA—a result which is certain to expedite the promulgation process. It will also assure that the issue of reasonable cost has a thorough airing as standards develop, but that such considerations cannot be the basis for an FAA veto of the standards. Moreover, a second criterion—demonstrable public benefit—is now added to the list of factors to be considered in developing the standards.

It is most appropriate that we should be considering reasonable cost and demonstrable public benefits when we are establishing these regulations, because we would not in any way want, through some frivolous action, to bankrupt the airlines. The net effect of this provision is to streamline the process of promulgating regulations, and the committee expects that, pursuant to this provision, regulations will be promulgated very, very soon.

In section 501(b)(2), language is transferred from section 505 and will require EPA to review all standards under section 611 of the Federal Aviation Act within 9 months of enactment of the bill. certificates. The hope is that EPA will move quickly to quiet as much of the fleet as possible.

Section 505 is deleted, because the requirement of EPA review is inserted in section 502(b)(2).

Section 506 is clarified to preclude States and localities from enacting identical standards. This added pressure was thought essential in the absence of a tough and effective regulatory program. However, requirements of section 501 and enforcement provisions in the legislation give sufficient tools to accomplish a tough and coordinated enforcement program on the Federal level. There was no intention in the committee bill to alter the relative powers of the Federal Government, State and local government, and airport operator, over the control of aircraft noise. This amendment would also retain the same powers for all parties.

An additional sentence is added to section 507 to clarify the relationship of part A to the rest of the bill. Noise emissions standards are tied into certain other parts of the bill, as specifically cross-referenced. However, authority to establish aircraft noise emissions standards is contained in part A of title V only.

With the acceptance of these changes, we in no way dilute the strength of the bill as reported from the Public Works Committee, rather the bill is improved by clarifying the process by which noise emission standards will be established. In addition, we have assured that EPA's role as lead agency in setting health

levels on aircraft emissions will not be stalemated. At the same time we continue to accept the advisability of and necessity for a two-fold FAA veto on grounds of technological availability and safety.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Have the amendments been offered, and are they now pending?

The PRESIDING OFFICER. The amendments are pending en bloc.

Mr. CANNON. Will the Senator yield to me for a question on the amendments?

Mr. BROOKE. I believe I have the floor, Mr. President.

The PRESIDING OFFICER. The Chair has recognized the Senator from Massachusetts. Who yields time?

Mr. TUNNEY. I am prepared to yield the Senator from Massachusetts some time on the bill, but I believe that the Senator from Nevada wants to speak of these amendments that have already been offered.

Mr. BROOKE. Very well.

Mr. CANNON. I thank the Senator for yielding.

My question, Mr. President, relates to section 501(c). It is my understanding that section 501(c) conveys no new authority on any Federal agency to regulate or control the air transportation system of the United States. I ask the Senator if that is correct?

Mr. TUNNEY. That is correct.

Mr. STEVENS. As I understand the compromise worked out here, EPA will build up a force of experts to deal with the safety aspects of aviation. Does it decrease the authority of the FAA in any way, in terms of the people who now have the expertise and are dealing with the safety aspects of aviation in this country?

Mr. TUNNEY. No.

Mr. STEVENS. I am glad to hear that. We had great concern about that in the Commerce Committee, as I think the distinguished chairman of our subcommittee has reported.

I am fearful as to the ultimate result of what we are doing with regard to EPA generally. It seems that in almost every major bill this year, we have given EPA a license to substantially expand and threaten the expertise of other agencies. They, as I understand it, will not promulgate the regulations dealing with safety or with financial aspects; those will originate with the FAA?

Mr. TUNNEY. That is correct. Now, of course, EPA is going to be promulgating regulations over aircraft noise emission levels, which will have an impact on safety, and what we have done in this bill is given to the FAA a veto power over any such regulations.

In other words, the regulations that come out governing noise emission levels of aircraft are going to have to be consistent with what the FAA considers to be the highest degree of safety.

Mr. STEVENS. I shall not speak to this at length, because I understand the time situation of Congress and the hard work that our committee staff and the agreeing to the amendments, en bloc, of the Senator from California.

The amendments were agreed to.

Mr. BROOKE. Mr. President, I send an amendment to the desk on behalf of Senator MUSKIE and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE'S amendment is as follows:

On page 90, between lines 23 and 24, insert the following:

"(d) Regulations shall be promulgated under this section which require that, effective not later than January 1, 1978, all subsonic transport category aircraft and subsonic turbojet aircraft, except aircraft owned or operated by any military agency, shall operate in compliance with either—

"(1) the maximum noise level standards specified for new subsonic jet aircraft in Appendix C of Part 36 of the Federal Aviation Regulations as in effect on September 1, 1972; or

"(2) the best attainable noise level in accordance with the criteria established in subsection (b)(1),

whichever is the lower level:

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. I yield myself such time as I may require.

Mr. President, aircraft engine noise is a serious environmental hazard affect-

Mr. CANNON. With further reference to section 501(c), is this provision in subsection (c) intended to encourage citizens to file suits of harassment against Federal agencies charged with the responsibility for maintaining air commerce, in which the citizens seek to disrupt the air transportation system of the United States?

Mr. TUNNEY. Absolutely not. There is no desire at all on the part of the committee or on the part of the proponent of these amendments to disrupt air commerce through harassment-type suits.

As a matter of fact, section 501(c) adds no new authority to the mandate given to any agency with regulatory authority over air commerce, aircraft or airport operations, or aircraft emissions.

Mr. CANNON. I thank the Senator for yielding.

The PRESIDING OFFICER. The question is on agreeing to the amendments. Do the Senators yield back the remainder of their time?

Mr. STEVENS. Mr. President, who controls the time in opposition to the amendments?

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BOGGS. How much time does the Senator want?

Mr. STEVENS. I would like to ask the manager of the bill a few questions concerning the impact of this proposal.

Mr. BOGGS. I yield the Senator whatever time he needs.

chairman of the Subcommittee on Aviation in the Committee on Commerce have done to try to work out the matter. But I am still feaful that the result will be that EPA will have a little FAA under its wings, and will start writing the regulations and sending them over to FAA to check them, and they will be permitted to exercise their veto if the regulations affect the financial and safety aspects of aviation.

I do not believe that EPA should expand itself to the position where it is an action agency. As I understood, they are a standards agency, and it seems to me they should have taken the regulations from the FAA in any area where they affect safety or financial aspects of aviation.

Mr. TUNNEY. In effect, they are going to have to take the FAA standards when it comes to safety and technological availability, factoring in a reasonable cost.

Mr. STEVENS. I thank the Senator very much.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. I am prepared to yield back the remainder of my time, if the Senator from Delaware yields back his time.

Mr. BOGGS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HUGHES). All remaining time having been yielded back, the question is on

ing the lives of millions of Americans.

From Inglewood, Calif., and Oak Lawn, Ill., to East Boston, Mass., and Queens, N.Y., and even to 1600 Pennsylvania Avenue in Washington, D.C., our citizens are subjected to a regular bombardment of noise from over-flying aircraft.

The increasing size and power of the 1960's generation of jet aircraft first elevated aircraft noise to a primary national problem. Yet, despite countless congressional hearings, agency and industry studies, and citizen protests, there has been distressingly little aircraft noise reduction.

The airlines argue that the traveling public demands swift aircraft. The first generation of jet aircraft was built with this need in view. The airlines contend that decreasing the noise from this fleet would be too great a cost burden for them or their passengers to shoulder. This argument, together with the claim that the technology was not yet available, governed our policy during the 1960's.

Over and against these arguments, however, are the benefits of quieter jet engine. Most obviously, of course, airport neighbors would no longer suffer either the physical or mental torture of jet noise. But there would be cost benefits as well. For example, less high-priced land would have to be bought by airport authorities as a buffer between the airport and the neighboring community.

There would be less need to soundproof surrounding schools, businesses, and homes. And, perhaps most impor-

[p. S17990]

tantly, residential property values in these areas would be significantly enhanced.

Research on the development of quieter engines has been in progress for several years. Within the Government, the most significant programs have been coordinated by NASA and the Department of Transportation. DOT, which includes the Federal Aviation Administration within its organization, has conducted programs to modify aircraft flight and landing patterns in order to expose the planes as little as possible to inhabited areas. Also, it has authorized experiments with various forms of acoustical treatment of the engines. But although the Congress gave FAA the power to regulate aircraft noise in 1968, it regrettably has not yet used that power to require a reduction in noise among the existing fleet.

More recently, the NASA Office of Aeronautics and Space Technology has initiated work on a program to replace the front fan of jet aircraft; it is estimated that the resulting decrease in noise would be at least 75 percent. Earlier this year, the Congress appropriated $25 million for continued research and development of this important project.

In addition, several of the major aerospace companies as well as the airlines themselves have sponsored studies on jet noise reduction. Yet, in spite of all this research, there has been painfully little reduction of noise from the 1960's generation of jet aircraft. There are encouraging signs that the new generation of aircraft, the 747's, the DC–10's, and the L–1011's, will have significantly low-

except those owned or operated by a military agency, shall operate by January 1, 1978, in compliance with maximum Federal noise regulations. The specific standards would be those set forth in appendix C of part 36 of the Federal Aviation Regulations in effect on September 1, 1972. This so-called part 36 noise level was established by the FAA in 1969 as the "technologically practicable" and "economically reasonable" limits of aircraft noise reduction technology. Regrettably, however, the setting of this regulation has had little noticeable or real effect on the current level of aircraft noise.

It is true that the so-called part 36 regulations have been met by the new wide-bodied passenger jets. However, available projections show that the numbers 727, 737, and DC–9 jet airplanes will increase during the next decade, until there will be more than 1,200 of these planes operating on U.S. certificated scheduled airlines in 1980, as compared to fewer than 1,100 from these groups at the current time. Each of these planes exceeds by a considerable margin in the applicable part 36 standard.

This situation can be changed. The Joint DOT/NASA Noise Abatement Office has been conducting extensive research and development on programs to reduce the noise in these and the other noisy jet aircraft now flying. Charts and projections have been made readily available to Members of the Congress which show that these agencies are now close to developing the technology needed to retrofit these jets, either by means or acoustical treatment or through the replacement of their front fans.

aircraft to meet the part 36 deadline is not radical or unrealistic. In fact, it is well within our grasp, and Congress would be delinquent if we did not do everything possible to insure that the goal is reached.

The amendment which I propose would grant the administrator of the aircraft noise abatement program, as well as the airlines themselves, flexibility as to the means of meeting the maximum noise levels of part 36. In addition, the amendment is consistent with the principles of the best use of available financial resources, technology, and safety factors as indicated in both the original Senate and House sections on the administration of Federal aircraft noise regulations. Thus, any of a number of alternatives including retirement of certain aircraft can be chosen to meet the criteria in this amendment by 1978.

Finally, there is one remaining but vitally important issue that must be resolved before aircraft noise abatement can become a reality. There must be a means of paying for the program. Already, several proposals have been put forward, including bills introduced by Senator CRANSTON and myself requiring limited Federal assistance to finance retrofitting. Furthermore, the administration is in the midst of its own study to determine the most appropriate means of financing a retrofitting program. Therefore, it is my intention to introduce a second amendment, following the disposition of the pending amendment, to require the Secretary of Transportation to report to Congress by July 1, 1973, his recommendations for financing the pro-

er noise levels. But this new technology has not been applied to the 1960's generation of aircraft, which will be with us for many years to come.

At the same time, Federal policy—executive, judicial, as well as legislative—has preempted local or State action to regulate aircraft noise through such means as establishing municipal noise levels or local landing pattern regulations. The Federal Government cannot continue an essentially hands-off policy with respect to demands for regulation of aircraft noise, and at the same time deny other governmental authorities the right to adopt their own policies.

Clearly, it is long past time when Congress should lead the way off of this treadmill, and enact the appropriate and necessary legislation to relieve millions of citizens across the Nation of this serious noise problem.

Many Senators have argued that the solution of this problem is essentially a bureaucratic one: who will administer the program for the Government. But I believe a more important question must still be resolved: namely, what will the program be? Simply to shift some or all responsibility from one agency to another will not necessarily do anything more than create another layer of personnel familiar with the problem. But, if Congress establishes a goal that can be achieved, then we can reasonably expect that any agency designated to administer and enforce that goal will meet the congressional intent.

As a minimum goal, Congress should require that all commercial jet aircraft, They anticipate ground tests for some types of aircraft by the end of 1972, and ground and flight tests for most of the remaining aircraft by the end of 1973. The charts prepared by the Noise Abatement Office also project a notice of proposed rulemaking during the early part of next year, and the issuance of rules in 1974 requiring the retrofitting. First deliveries of the quieter airplanes should be in 1975, and the targeted completion date for all retrofitting is 1979.

Now, Mr. President, these projections are well known to many knowledgeable Members of the Senate, as well as the aircraft community itself. In fact, the president of American Airlines, in a letter to Senator TUNNEY reprinted in the Senate Public Works Committee's report on the pending legislation, stated that:

> The earliest achieveable date (to modify aircraft now in service to meet FAR 36 specifications) in our opinion is January 1, 1978.

So, quite clearly, the Federal projections are attainable and, more likely, represent conservative estimates.

I believe that these projections should become a national commitment. The aircraft noise reduction program has received more than enough preliminary study and planning. It is a program that I believe is a realistic national goal. In fact, as is indicated by the plans which I earlier described, there is every reason to believe that it is already an accepted program of the Joint DOT/NASA Noise Abatement Office.

Thus, to mandate a January 1, 1978 date for all nonmilitary commercial jet gram.

In summary, Mr. President, I believe that the pending legislation provides a logical and appropriate opportunity for the Senate to place itself on record in support of an environmental goal for which there is a demonstrable need. It is a goal which is achievable, and toward which the administration itself is now striving. The adoption of this amendment would be a clear signal that the Senate intends to act responsibly in meeting America's noise problems. I urge its adoption.

Mr. TUNNEY. Mr. President, it would be my hope that the Senator from Massachusetts, whose amendment I think points out one of the most important areas of concern in the reduction of noise, would withdraw his amendment, and perhaps next year this could be the subject of legislation by Congress.

The matter has been studied by the Committee on Public Works. Also, hearings have been held by the Committee on Commerce, and at the present time the Department of Transportation is also studying the matter. In our bill, in section 501, we anticipate that there will be retrofit.

Although we do not have a timetable, the very fact that we have set out a program for the establishment of noise emission levels necessary and adequate to protect the public health and welfare indicates that the only way these levels are going to be achieved is if there is retrofit or retirement of noisy aircraft. Even so, we did not set out a definite time in the

[p. S17991]

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bill, because it was felt that not enough information had been developed so that we could set a specific target date.

It seems to me that with the language of the bill in section 501, which requires that standards be set by EPA, with the FAA veto over safety and technological availability, and with the provisions in section 502 whereby EPA must study the adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofit and phase out all existing aircraft, we will be in a better position next year to set a timetable for retrofit or retirement than we are this year.

I am fully cognizant of the tremendous problem the Senator has at Logan Airport because I, having gone to school at one point in the neighborhood, and spent a good deal of time in that area in my younger years. Particularly in South Boston there are terrible problems. Clearly we do need a retroschedule or retirement schedule; but it would seem to me to be better to wait until next year when we would have the benefit of the studies that will be done, as mandated by this legislation and of the studies ongoing by the Department of Transportation. Then we would know precisely what we are doing, and also so that we would have developed a mechanism to finance retrofit at the time that we require it.

On this last point, I feel that the subject of financing retrofit is one which all of us have to be concerned with, because it is not the intention of any of us to bankrupt the airline industry. At the same time, we do not want to have been encouraged by what we have done with the new "wide-bodied" jets, nevertheless, we must be concerned with the excessive noise from the great majority of aircraft flying today over the United States.

I recall that the distinguished Senator from California went to school in Cambridge when he was in Massachusetts and I can assure him that the people of Cambridge do not suffer as much as do those of South Boston, East Boston, Revere, and Winthrop and other surrounding towns where one literally cannot sleep at night. When the planes take off and land, it sounds like they are coming into your own house. The value of these residential properties has decreased. And this phenomenon has taken place not only in towns surrounding Logan Airport but at other airports across the country.

There is also a health problem and a psychological problem affecting the children who live close to airports. Of course the economic costs of noisy airplanes has already been discussed.

I believe the financing program and the official commitment to retrofitting are matters that can be resolved separately. What I hope can be achieved through the useful discussion of this amendment is to get the Senate on record as making a commitment to retrofitting by a time certain. I think that that time certain is not next year or the year after because as a practical matter it just cannot be done. We know that. But I do believe, and I hope that my colleagues agree, that 1978 is a realistic and attainable target.

I have performed a very valuable service by bringing this matter to the attention of the Senate. When such a matter is brought up solely before a Senate committee, it does not get the public attention that it has gotten today on the Senate floor. He has performed a valuable service by pointing out that there has to be a time definite for retrofit or retirement of noisy aircraft. I think there should be, too.

I should like to point out to my good friend that the letter I received from the American Airlines dated September 15, 1972, which is included in the appendix to the committee report on the bill, stated that—

> The earliest achievable date for requiring all aircraft to meet the 108 EPNdB standard in FAR 36 in our opinion is January 1, 1978.

This was an opinion not generally shared by other members of the airline industry and other aerospace companies.

Mr. BROOKE. Does not the Senator feel that this is a realistic goal?

Mr. TUNNEY. I think that it is a realistic goal, and that we should be pointing to it next year when we will have the opportunity to evaluate some of the studies. Then I would be most enthusiastic to join the Senator as a cosponsor of his bill, a retrofitting bill, assuming that the studies demonstrate that by 1978 we can, in fact, as we push technology, achieve a full retrofitting schedule or a retirement schedule.

Mr. BROOKE. I thank my colleague from California very much.

Mr. BOGGS. Mr. President, will the Senator from Massachusets yield?

Mr. BROOKE. I yield.

stroy the health and welfare of the citizens who live adjacent to airports.

I might add a final point which is that I am an enthusiastic supporter personally of a retrofit or retirement schedule; hopefully, next year we will be able to establish such a schedule. I am convinced that if we could have a retrofit or retirement schedule, it would provide thousands and thousands of new jobs in the aerospace industry. This nice side benefit will require people to build the systems for retrofitting, and in the case of some of the older aircraft which would likely be retired rather than retrofitted, it will help the airframe manufacturers as well. So that I think everyone will benefit by a retrofit or retirement schedule.

At this point in time, however, it is my hope that the Senator from Massachusetts could find his way to withdraw his amendment today with the recognition that he has demonstrated great leadership in bringing this matter to the attention of the Senate, and that he will be demonstrating this leadership next year when this matter comes up before the Senate again.

Mr. BROOKE. Mr. President, I thank the distinguished manager of the bill. I have been much concerned, as has he, about the aircraft noise abatement problem. Several years ago, I presented to the Senate a program for retrofitting, because I believed we all understand that we will not get rid of the existing fleet overnight. It will take some time. Retrofitting represents an investment of hundreds of millions of dollars. Although I understand the position of the airlines. I know retrofitting will be costly, but as I have indicated, even one of the airlines agrees that 1978 is an achieveable goal.

I am not going to belabor this matter. I will not ask for a rollcall vote on this amendment. I have great faith in the Senator from California's personal commitment to the program. I am very much encouraged by the fact that he will hold early hearings next year. The distinguished ranking member, the Senator from Delaware (Mr. BOGGS) has made a similar commitment that we will have hearings and see if we cannot move to making it certain that by 1978, all U.S. aircraft which do not already meet Federal noise abatement limits, will be retrofitted. At least the American people will know of the Federal Government's plans for enforcing aircraft noise limitations. And they are clearly entitled to have some knowledge of when they can expect that this will be done, instead of people repeatedly saying to them, "well, it is coming, it is coming."

With the assurance of the Senator from California and the Senator from Delaware that we will have early hearings next year on this matter, and that the Senator from California will consider making a commitment for a time certain for retrofitting, I would certainly agree to withdraw the amendment.

Mr. TUNNEY. I should like to thank my distinguished friend from Massachusetts for doing that. He has per-

Mr. BOGGS. I want to take this opportunity to commend the distinguished Senator from Massachusetts for his leadership and for his actions in regard to the retrofitting program. I join the distinguished Senator from California (Mr. TUNNEY) in giving assurance that certainly the committee will give every consideration to this, and will hold hearings.

I agree 100 percent with the Senator from Massachusetts that this is of primary importance. I believe that progress will be made on it and we will accomplish our objective, under the leadership and the understanding and the drive which the distinguished Senator from Massachusetts has to put this through. He is to be commended.

Mr. BROOKE. Well, Mr. President, that is more assurance than I need from my good friends from Delaware and California.

Mr. President, in keeping with that understanding, I withdraw the amendment.

Mr. TUNNEY. Mr. President, before the Senator withdraws his amendment, I ask unanimous consent to have printed in the RECORD one letter on this subject that I sent and the answers I have received from the various airline companies, engine and airframe manufacturers, and Federal agencies. It appears as an appendix to the committee report.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[p. S17992]

APPENDIX

(Responses to letter from Senator TUNNEY concerning establishment of a mandatory schedule for achieving reductions in aircraft noise emissions)

Letter from Senator Tunney to which the following are responses

SEPTEMBER 8, 1972.

Mr. JOHN H. SHAFFER,
Administrator, Federal Aviation Administration, Department of Transportation, 400 Seventh Street NW., Washington, D.C.

DEAR ADMINISTRATOR SHAFFER: As you know, the Senate Public Works Committee has been marking up a noise pollution control act (S. 3342) which I introduced with Senator Muskie in March, 1972.

In the context of provisions respecting control of aircraft noise, it has been suggested that a retrofit schedule be established in the legislation. In order to meet the deadlines, aircraft which could not be retrofitted economically could be retired and replaced by the new generation of quieter aircraft already under construction.

Suggested language to be added to S. 3342 would provide that no aircraft could land at U.S. airports after January 1, 1976, unless such aircraft complied with the maximum noise level standards in Appendix C of Part 36 of the Federal Aviation Regulations (i.e., 108 EpndB). New aircraft types manufactured after date of enactment would be required to meet best available technology, or, at a minimum, a noise level 15 EpndB lower than the Part 36 standard by January 1, 1975. Additionally, the EPA Administrator would be required to identify further noise reductions which would be contemplated thereafter.

Because of the press of Committee business and the short time left in this session of Congress, I am writing to solicit your views on this subject which, I am aware, has been discussed in the context of previous legislation and subjected to considerable study in ufactured after the date of enactment would be required to meet the best available technology or, at a minimum, a noise level 15 EPNdB lower than the Part 36 standard by January 1, 1975. Airport operators believe this is an excellent approach. We have long recognized that aircraft noise pollution constitutes a primary constraint upon the U.S. aviation system.

The proposal to include a specific date at which time all aircraft must meet or better the noise levels of FAR Part 36 is an absolutely essential component of any noise abatement plan. Progress in noise reduction will be made only if specific future goals are set now, and adhered to by those Federal agencies charged with the responsibility of reducing aircraft noise.

Although the NASA and Rohr studies of 1969 and 1970 clearly indicated that technology existed to retrofit existing aircraft, the FAA began another comprehensive study regarding retrofit. These studies are nearing completion. A flight test of the retrofitted 727 will take place this fall with a final report due in the first quarter of 1973. A flight test of a retrofitted 707 will take place during the summer of 1973 with a final report due in the fourth quarter of 1973. Contracts have been awarded for studies of the DC–8 and DC–9 with their completion dates scheduled for late 1973. A contract for the study of retrofitting the 737 will be awarded this fall with the completion date as yet undecided. Preliminary test results from the above studies, that is static ground tests and other acoustical data, indicated that it is technologically possible to retrofit aircraft to meet FAR Part 36. These studies strongly support your proposed additions to S. 3342.

While it is clear that the technology exists to mandate retrofit, the decision to either retrofit or retire should be left to the individual airlines. The language that is suggested would permit the owner of the aircraft to consider any option, that is, retrofit, retirements only increase the grave threat that noise pollution presently poses to our national air transportation system.

Sincerely,

J. DONALD REILLY,
Executive Vice President.

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY,
New York, N.Y., September 18, 1972.

Hon. JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR TUNNEY: Thank you for your letter of September 12, concerning proposed changes to the noise pollution control bill (S. 3342).

We believe that language such as that suggested in your third paragraph is essential if the new bill is to result in timely and effective reduction of aircraft noise. The best information available to us indicates that January 1, 1976 is a reasonable target date for a retrofit program if action is started now. Of critical importance, however, is the development of a financing program for the capital required to accomplish retrofit. Without Federal Government leadership in this area, I am afraid that retrofit will be jeopardized.

The suggested limit of 15 EPNdB below FAR Part 36 seems excessive for the present state of the art. The joint DOT–NASA "CARD" Study indicated that a 10 dB reduction seemed feasible within 10 years. We suggest that, in the language of Part 36, new aircraft for which *application* for a type certificate is submitted on or after January 1, 1975, be required to meet noise levels at least 10 EPNdB lower than those of present Part 36. Only by early action of this sort can the public be assured that developing technology will be applied to further noise reduction rather than increased payload and range.

Thank you for the opportunity to com-

the industry and Administrative agencies.

Specifically, I hope you will address yourself to the current state of technology respecting retrofit (and will consider new front fan treatment in addition to nacelle treatment), costs of retrofit or retirement and replacement and suggestions as to which procedure might be more appropriate for certain types of aircraft, necessary lead times, alternative specific language which could be inserted in the legislation.

If I could receive your comments by Monday, September 18, I would be in a position to advise my colleagues on the Committee of your views. I recognize that you are not given much time in which to respond, but I hope that you will be able to cooperate with us. Correspondence should be brought to the attention of Mrs. Jane Frank, my legislative assistant.

Thank you for your prompt attention to this matter. The Public Works Committee will meet on Tuesday, September 19, and I would hope that we will be able to report the bill to the Senate floor at that time.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

AIRPORT OPERATORS COUNCIL
INTERNATIONAL, INC.,
September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for the opportunity to comment on your proposal that the Noise Pollution Control Act (S. 3342) includes language which calls for either the retrofitting or retirement of noisy aircraft that do not meet FAR 36 maximum noise requirements by January 1, 1976. Your proposal also specifies that new aircraft types mandment or other conforming use. We do not believe that the airlines can be burdened with the costs of retrofit or retirement to an extent that would seriously impair their financial position. It is very important that this country have a financially healthy national air transportation system. Several different approaches exist for providing financial assistance to an aircraft owner if that assistance is needed or requested. They include: accelerated tax depreciation benefits, Federal funding and loan guarantees, or a small increase in passenger ticket and cargo waybill user charges for the short period of time required to assist in financing the above options. Another economic consideration which must be considered is the great boost that a decision to retrofit, or replace noisy aircraft, would give to the sagging aerospace industry. We believe that your second concept requiring that new types of aircraft manufactured after January 1, 1975 meet either the best available technology or, at a minimum, a noise level 15 EPNdB lower than Part 36 is a laudable goal.

In summary, we believe that the proposal to require that all aircraft after January 1, 1976 meet FAR Part 36 in an excellent one. We further support the proposal for setting a goal of reducing the noise by 15 EPNdB within three years. I would refer you to our more detailed presentation before the Subcommittee on Air and Water Pollution on April 13, 1972 at which time we discussed at some length our support for these proposals. There must be action now to reduce aircraft noise pollution. We believe that the best way to accomplish this without incurring further delays is to mandate the agency which is conducting investigations and studies in this field at this time to issue such regulations. This would be the Federal Aviation Administration. Further delays in the implementation of aircraft noise regulament on these aspects of S. 3342.

Sincerely,

NEAL R. MONTANUS.

CITY OF SAN JOSE,
San Jose, Calif., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Your letter of September 8, 1972 to Donald Reilley of Airport Operators Council International relative to S. 3342 has come to my attention. I enjoyed our meeting at Oakland Airport when you met with RASSC relative to our Bay Area Systems Study. I feel rather strongly on the subject and would like to comment further. I would like to offer you a summary of recommendations, my credentials, and discussion giving reasons for the recommendations. In summary, it is technologically and economically feasible to accomplish these recommendations. It is specifically recommended that:

1. FAA be required to establish a retrofit trust fund with the monies to come from a national enplanement tax levied against the air passenger;

2. That the FAA establish a formula for paying for the retrofit, said formula to consider cost of retrofit and tax credits:

3. The retrofit program be as follows:

(a) That existing aircraft not now meeting FAR 36, be required to have nacelle retrofits and meet FAR 36 by January 1, 1976, with funds from the trust fund;

(b) The same aircraft be required to re-engine or incorporate the new NACA front fan treatment by January 1, 1979, with funds from the trust fund;

(c) That both (a) and (b) may be accomplished by January 1, 1976 if desired by the air carrier, with total payment to come from the trust fund formula;

(d) That in lieu of retrofit, an air carrier may choose to retire existing aircraft from service, in favor of purchasing new, quieter aircraft, and that in such cases, the equivalent of retrofit be awarded from the trust fund to the air carrier toward purchase of the new aircraft;

4. That any language relative to new aircraft be explicit to include new aircraft, regardless of country of manufacture.

As to my credentials, I graduated from the University of California at Berkeley, with a BS degree in Mechanical Engineering, with an aeronautics option. I am a registered Professional Engineer in the State of California. I served four years as a naval avaiator, flew airline with Pan American, spent five years as an experimental test pilot with the National Advisory Committee for Aeronautics (now NASA) and North American Aviation, and twenty-five years as Airport Manager. I served as an airport representative on the Aeronautics and Space Engineering Board ad hoc study advisory committee which resulted in the joint DOT/NASA civil aviation R&D policy recommendation. I have kept in close contact with my former associates at NASA and feel I have fairly good knowledge of the state of the art of research and development.

To solve the problem, we ask what is technologically and economically feasible. The airlines say they cannot afford to retrofit and they cannot. We would take the position and state that aircraft must be retrofitted (including new front fan treatment) by a given date, then if we say how to finance it, we will have the solution. The NASA–GE quiet engine research program has yielded noise reductions greater than anticipated when the contract was let. We know that noise can be reduced to about one-fourth of what it is now and, in the case of the 707 and DC–8 aircraft, the noise footprint under the 90 PNDB contour can be reduced from the present 47,500 acres to about 3,000 acres. If all air carrier aircraft today were equipped with chased. This is an economical and not a technological problem. This alternative would help modernize our air fleet and would stimulate our air frame and engine industry.

For the above reasons, I support the addition of language that requires all aircraft to meet Part 36 by January 1, 1976. We know how to do it and it can be financed by a user tax.

I think there might be some problem in requiring retrofit of aircraft manufactured after date of enactment to meet the noise level of 15 EPNdB by 1976. I would suggest that 10 EPNdB by 1975 would be more realistic criteria. If the criteria is too severe and applies only to new types of aircraft, it might tend to discourage design and development of new aircraft unless some premium or assistance were offered. It would be more economical to continue to manufacture the same aircraft. I suggest that the language state that *new* aircraft manufactured after January 1, 1976 be clarified to include aircraft, regardless of country of manufacture, or the foreign manufacturers would have an unfair advantage over United States manufacturers.

I further suggest that the 707 and DC–8 aircraft can be reasonably retrofitted with acoustically treated nacelles, and retirement may be more attractive than subsequent engine retrofit; however, that would be the airline's decision. The B–727, 737 and DC–9 are expected to be with us well into the 1980's. I suggest that the nacelle retrofit as you propose be required by January 1, 1976 and that the new NACA front fan be required by January 1, 1979, with the airline having the option of doing both by January 1, 1976 if they desire, with payment being made from the new trust fund. This would result in a mix of aircraft that by 1980 would consist principally of a re-engine 727, 737 and DC–9, wide body jets and some new aircraft with the new generation of quiet engines. The approaches to the noise problem may be appropriate for the different classes of aircraft.

I believe that the 707/DC8 fleet represents the greatest problem and is the main source of complaints (for such major airports as JFK and Los Angeles). The first attached noise footprint chart illustrates this problem. I am not aware of any practical way to retrofit their current engines by nacelle treatment alone to achieve FAR36 noise. NASA is now financing a technology program to test a redesigned fan section for these engines which might show the technical feasibility of retrofitting the 707/DC8 with these quieter engines plus new nacelles and reversers. While we believe that it might be technically possible for such substantially modified engines and nacelles to meet FAR36, we believe this approach will prove to be a very poor investment for the industry and the Government. These airplanes are already obsolete.

A much better and proven solution to the 707/DC8 noise problems already exists in the DC10/L1011/ and 747 series of wide-body jets. These modern aircraft, incorporating the latest in noise reduction and smoke reduction technology have already been certified at noise levels below FAR36. The aircraft types using the General Electric CF6 engine in the 1971–1976 time period including the DC10–10, DC10–30, 747–300, and A300B have noise levels ranging from 3 to 7 EPnL below FAR36 on a traded basis. This is a huge improvement over the 707/DC8, as shown in the second chart attached, and is much quieter than is possible with 707/DC8 engines retrofitted with new fans, nacelles, and reversers. I believe that it would be much more sensible for the Government to find ways to accelerate the retirement of these old aircraft in the 1973–1978 period and replace them with the modern quieter aircraft available.

The smaller aircraft such as the 727/DC9/737 can be approached in a different way. We believe it is possible for this class of aircraft

this new generation of quiet engines, I believe that every air carrier airport in the United States would be environmentally acceptable from a noise standpoint. This then states that by some year, say 1985, we will have an environmentally acceptable industry. The problem is, then, how do we live until that time, I believe that a strong, firm act by the Federal Government, such as you are proposing, is our only salvation.

We have plotted the noise contours for the San Jose Municipal Airport and have determined that we can meet State of California noise requirements, and have no residency inside the 65 CNEL curve by purchasing houses in the immediate vicinity of the Airport, and by having all aircraft equipped with the new generation of quieter engines. Thus, the current state of technology has reached the plateaus of offering known solutions. With continuing research, even greater strides can be made for the future.

If your bill would provide the means of financing retrofit, then it might offer a clearer method of solving the problem. If society has to pay for noise reduction, then the user should be given the opportunity to pay for that reduction. A passenger head charge of say $1.00 per passenger would currently generate some 175 Million Dollars annually. The money could be borrowed against this revenue which yields 1.75 Billion Dollars. I agree with James Carr that the airline passenger should be given the chance to pay to reduce the noise and thereby improve the environment.

The acoustically treated nacelle and the new treated front fan installation could be financed by this method by having the FAA levy an enplanement tax, with the proceeds to go to a trust fund to pay for the retrofit. As James Carr has pointed out, the equivalent of the retrofit cost could be given to an airline if a noisy aircraft is retired, and new aircraft meeting new noise standards is purDC–8 and 707 will probably be retired in favor of the new aircraft with quieter engines. This would result in a positive program that would stimulate the aircraft industry and would give the general public which must endure the noise relief with programmed reduction for the future. The user would pay the tab and the United States would set the pattern for the rest of the world to follow. The rest of the world to follow. The rest of the world is waiting for the United States to come to grips and solve the noise problem before they take a hard stand. This has come to light at international meetings on the noise problem.

Specific recommendations were presented at the start of the letter and I appreciate the opportunity to offer my comments to you.

Very truly yours,

JAMES M. NISSEN,
Airport Manager.

GENERAL ELECTRIC CO.,
West Lynn, Mass., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

Attention of: Mrs. Jane Frank, Legislative Assistant.

DEAR SENATOR TUNNEY: I am pleased to respond to your letter of September 8 addressed to Fred J. Borch requesting specific comments on the current state of engine noise technology with respect to retrofit of the older aircraft types, retirement of these aircraft and their replacement by the new quieter types, the appropriateness of the FAR36 noise standard for all aircraft landing at U.S. airports after January 1, 1976 and FAR36 minus 15 EPnL for new aircraft types by January 1975. I have not attempted to address myself to the specific language of your Bill but rather to the basic issues raised in your letter.

As you indicate in your letter, different to have their nacelles modified in such a way that FAR36 can be met and that their noise footprints could be reduced with proper consideration of takeoff and approach aircraft operating procedures (such as power cutback and 2 segment approaches). Whether engine retrofit of the existing aircraft fleet is sensible is another matter—particularly if the dominant 707/DC8 noise can be handled by replacement with available quiet widebody transports, and if 727/DC9/737 noise footprint areas can be ameliorated by operating procedures alone.

With regard to the retrofitting of the 727/DC9/737 fleet with their existing engines rebuilt with new larger fans (development of which is now funded by NASA) plus new nacelles and reversers, we believe that this approach will also prove to be a very poor investment for its incremental noise improvement. Here again, it appears to me that the wiser and more effective solution lies in the new aircraft types using high bypass turbofans such as the CF6 or the new 20–25 000# thrust turbofans now under consideration which will replace the 727/DC9/737 fleet. Typical noise levels for such new aircraft are shown on the third chart.

These new twinjets and trijets in the 150–180 passenger short to medium haul category certificated in the 1976–1978 period may be able to meet FAR 36 minus 10 EPnL. Although this has not yet been achieved in an economically attractive way, it is our goal and we are making progress toward it. We consider FAR36 minus 15 EPnL out of reach for the 1970's, and furthermore, doubt that there is a need to achieve this level when operating from current airports.

In summary, I would like to emphasize that I believe that the real problem of resolving the current noise situation with respect to meeting FAR36 on any accelerated time schedule such as you propose is pri-

marily one of economics—not technological. This real problem is not being addressed, in my opinion. The DC 10/L1011 and 747's can solve most of the public problem—the question is how to get many more of them in service sooner. Revised aircraft operating procedures can help 727/DC9/737 noise now, newly manufactured 727/DC9/737 could have nacelle treatment added and new types of short and medium haul twinjet/trijet transports with high bypass turbofans will completely solve the noise problem posed by this class of aircraft in the post 1976 period. The U.S. Government should concentrate more on helping to modernize the U.S. fleet with new wide-body high bypass turbofan powered transports than on the modification and retrofit of obsolete engines and aircraft. If such a solution can be found, it would be the best solution for noise, pollution, passenger comfort, U.S. sales/jobs/balance of trade, and the general health of the aircraft and airline industry.

Sincerely,

GERHARD NEUMANN.

GILBERT, SEGALL & YOUNG,
New York, N.Y. September 14, 1972.

Senator JOHN V. TUNNEY,
Committee on Public Works,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I have your letter of September 8, 1972 concerning S. 3342. Unfortunately, this did not reach me until yesterday, after being forwarded through Washington and New Jersey. You will recall that your letter was addressed to me as President of Rolls-Royce, Inc., 45 Rockefeller Plaza, New York 10020. Rolls-Royce, Inc. has since 1969 had no connection with aviation, and is strictly an importer and distributor of Rolls-Royce and Bentley motor cars. It has not been located at 45 Rockefeller Plaza for some years, and I no longer have any association with it or its parent company in mind, lead to very unfortunate complications, both with respect to the entire aviation industry and all U.S.A. commerce, and with respect to the commercial relations between the U.S.A. and foreign countries into which U.S. carriers fly.

3. Similarly, because of the complexity of the problem I would not think that the imposition by statute of arbitrary noise limits would be desirable. Rather, I would think that the best results would be obtained by leaving the matter primarily to the FAA, which is the expert public agency capable of taking into account all of the necessary considerations. Further, the dates and standards the bill would set appears to me to be very optimistic on the basis of present knowledge, though I recognize that predictions in this area are very difficult.

4. As to your specific inquiries, it is not possible on such short notice for me to give you useful responses. Beyond that, I do not believe that there is sufficient data presently available concerning retrofit, the cost of retrofitting, lend times and procedures respecting specific types of aircraft. One can only be sure that retrofit of older aircraft, including, as you suggest, new front fan treatment, would be enormously costly and disruptive, but it would be premature to make any dependable estimate along these lines. Rolls-Royce, of course, like other engine manufacturers, is expending great efforts with respect to those of its engines which power commercial aircraft. These include the Spey engine on the BAC 111 and Gulfstream II (efforts concerning the Spey being the subject of an article in Aviation Week for September 4, 1972), the Dart, which powers various types of aircraft, including the FD27, the Grumman Gulfstream I, the Viscount and others. The Conway engine, which is installed on the VC–10 and certain models of the Boeing 707 and Douglas DC–8, is not in service with any U.S. airline. All of the air-of the national economy, and our aircraft the major element in sustaining our international balance of trade. I believe that the low certificated noise levels and our worldwide demonstrations of the L–1011 attest to the success of our efforts.

We appreciate the opportunity which you have afforded us to contribute our thoughts toward rational legislation for improving the over-all acceptability of an airport within a community, and we recognize that more must be done. Addressing the points which you have outlined in your letter, we have the following comments:

STATE OF TECHNOLOGY

Knowing that we would have to work within the framework of legislation and regulations when we first addressed the problem of reduced aircraft noise, we, with the rest of the Industry, pointed out that it was impossible to create products with design lead-times of three to five years, followed by production durations of ten to fifteen years, against a "floating target" for required noise performance.

Although our L–1011 has bettered current noise standards by several EPNdB, we see no reasonable way to achieve a 15-EPNdB improvement over Part 36 as your letter suggests. We have no promising clues to pursue and must await the results of research programs that have as yet not been formulated. The CARD Study done by the Department of Transportation suggested the possibility of 10 EPNdB below Part 36 might be possible in 1980. We believe that this is a reasonable target for certification of a new airplane, even though we still do not know how to achieve this goal with a practical design.

In our efforts to set targets for incorporating improvements as the state of the art changes, the legislation should identify potential *certification* dates rather than new airplane *delivery* dates. It is not clear in your

England.

I am, however, U.S.A. counsel for Rolls-Royce (1971) Limited, of London, Derby and Bristol, England, which is the successor to the gas turbine business of Rolls-Royce Limited, and for its subsidiary, Rolls-Royce Aero Engineers, Inc., of which I am also a Director. The address of Rolls-Royce (1971) Limited headquarters is 14–15 Conduit Street, London WIA 4EY, England. The address of Rolls-Royce Aero Engines, Inc. is 551 Fifth Avenue, New York, New York 10017.

Since receiving your letter yesterday I have learned from Mrs. Frank and Mrs. Deller that the time schedule has been speeded up so that you require comments by Friday, September 15, 1972, rather than Monday, September 18. I had hoped to make a truly useful reply to your inquiry, but unfortunately the time is really too short to do this.

Perhaps, however, I can respond in a general way to certain aspects of your inquiry.

1. It would appear to me that noise limitations upon the operation of aircraft should remain with the Federal Aviation Administration rather than the EPA. I say this because the nature of the problem requires careful consideration of problems far beyond the normal concerns of the EPA. From the nature of the matters to which your letter addresses itself I infer that, to some degree, you may agree. I suggest, therefore, that the bill should not vest sole authority in the EPA, but should leave it primarily in the FAA which is currently engaged in very comprehensive studies of all aspects of the problem.

2. I would not think that it would be wise to provide by statute that no aircraft can land at U.S. airports after a fixed date unless certain specific noise level standards are met. Rather, I think that the authority to fix and enforce noise level standards should be left primarily to the FAA. To impose a rigid statutory rule with rigid dates would, to my craft powered by Rolls-Royce engines do, however, utilize U.S. airports in international travel. The RB 211, which is installed on the Lockheed L–1011, is, of course, a new technology high thrust engine with outstanding noise characteristics, and it does not, I believe, fall within the ambit of your inquiry.

In a nutshell then, aside from my being able to make the remarks above, I do not think that there has been time enough to collect reliable data and to put it in a usable form for you. I am not at all sure that even if more time were available I would be able to give you comparative costs of retrofit and retirement and replacement, nor do I believe that I could make informed comments concerning aircraft which are powered by engines other than Rolls-Royce. I regret that I cannot do more at this time. If developments are such and the time available is expanded so that we can be of assistance in the future, and if we can be given sufficient advance notice to permit the development of appropriate data, we shall certainly do our best to assist you in any way we can.

Yours sincerely,

PHIL E. GILBERT, Jr.

LOCKHEED AIRCRAFT CORP.,
Burbank, Calif., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Committee on Public Works,
Washington, D.C.

DEAR SENATOR TUNNEY: We at Lockheed have been doing everything in our power to see that our new L–1011 transport has as low a level of noise as can practically be reached, and we are working hard with propulsion manufacturers and NASA seeking out any new ideas which will improve urban acceptability of future airplanes. I think we have demonstrated that a new "good neighbor" transport can be developed without destroying the inherent efficiency which has made our air transport system a mainstay

letter whether "new aircraft types manufactured after date of enactment . . ." refers to any new airplane or only to new airplane types *certified* after enactment. If it means "all new aircraft manufactured" this will result in the shutting down of programs which fulfilled all regulations at their inception, and for which contracts have been entered into.

SPECIFIC REQUIREMENTS FOR NEW AIRCRAFT

Your suggestion that the regulations be lowered 15 EPNdB for any new aircraft type manufactured after date of the enactment of the legislation leads to major inconsistencies in the permissible noise levels of "old" and "new" aircraft. It would:

a. Allow the manufacture and operation of older type airplanes indefinitely utilizing a refanned powerplant or modest suppression techniques only meeting Part 36 noise requirements.

b. "New aircraft types", on the other hand, would have to meet a sound level 15 EPNdB below Part 36 by January of 1975. This would, in effect, force redesign of current wide-bodied aircraft now sold, all of which have utilized everything practically available in the state of the art to improve noise performance. In Lockheed's case, this would affect 100 to 200 airplanes which now are under firm contracts, or second buys, or additional follow-on airplanes from present customers.

c. If your reference to "new aircraft types manufactured. . . . actually means "certified" after enactment, there is still a major problem with new versions of present designs, such as twin conversions, long-bodied modifications, extended range conversions, and similar models. These would all have to incorporate entirely new powerplants, and since we do not know how to meet a 15 EPNdB reduction, any such extension of our current models would be effectively stopped.

RETROFIT

Although Lockheed does not have current large transport aircraft which exceed the maximum noise level standards of Appendix C of Part 36 of the Federal Aviation Regulations, we recognize that most of the existing operational transports and some current production transports and business aircraft produce noise levels well above the regulations.

We also recognize that the airlines are in no financial position to modify these airplanes, even if a powerplant existed which would bring them into full compliance. The extent of the problem is dramatized by the estimates of research and development for such a powerplant installation that vary between $100 million and $200 million. To this must be added retrofit costs that approach $2 million for each four-engine transport. It is our estimate that between 400 and 500 of these airplanes would still have a useful economic life by January of 1976, all of which suggests that development and retrofit costs might approach $1.25 billion to bring these aircraft into noise compliance—a cost which the airlines and the aircraft manufacturers could not afford without major compensating increases in revenue.

This estimate does not include retrofit of the smaller twin and trijet transports which would certainly average $300,000 to $500,000 per aircraft. We estimate that approximately 1300 of these would still have an economic future in January 1976, and retrofit of this number would therefore be nearly another $700 million.

By introducing these costs, we do not wish to leave the impression that we oppose retrofit; we only want to emphasize the financial impact of the legislation which you propose, and to suggest that normal channels for financing such an endeavor do not eixst to our knowledge.

It is our opinion that the best approach to retrofit is by the use of a new fan on

THE BOEING CO.,
Seattle, Wash., September 18, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate, Committee on Public Works, Washington, D.C.

DEAR SENATOR TUNNEY: Your letter of September 8, 1972, poses many complex questions that are of vital interest to all parties concerned with aircraft noise. The timing of your request and the complexity of the questions make complete answers difficult if not impossible. My first impression is that passage of a law with the language as suggested in your letter would inevitably bring air transportation, as we know it today, to a standstill.

My second impression is that legislating technology and schedule of accomplishment is unsound. There exists today industry and government sponsored research work aimed at producing a valid decisionmaking base. It is not clear how new legislative acts can establish both levels and schedules for noise reduction before government and industry can develop the technology required to do the job. It seems there is risk of establishing a law that is not enforceable.

Your proposal to require all aircraft landing at U.S. airports to meet Appendix C noise levels by January 1, 1976, could have a far reaching impact. It would stop a major portion of domestic and international air service. There is no apparent way the current JT8D and JT3D fleet of commercial aircraft could be retrofit or replaced by January 1, 1976, as you suggest, regardless of research and development funding or monetary support to the airlines.

The suggested 15 EPNDB reduction by January 1, 1975, cannot be commented on unless the specific meaning of "new aircraft types manufactured after" is interpreted. If this includes 747, DC–10 and L–1011 aircraft types, it would stop production of these new quieter airplanes. If the requirement applies only to future new type designs, it would stop development of new designs until simple, fast, inexpensive solutions do not exist.

Although not answering your questions to the extent I'm sure you desired, I hope these comments might be of help to the Public Works Committee in their deliberations on this very significant legislation. My recommendation for alternate rule language would be to suggest funding programs at a level to accomplish noise reduction to the extent technically feasible and at the rate the Congress and the Nation desires.

Very truly yours,

T. A. WILSON.

[Attachment.]

BOEING NOISE REDUCTION RESEARCH

[In millions of dollars]

	Boeing R. & D.	Government contract	Total
Year:			
1958	0.601		0.601
1959	.106		.106
1960	.282		.282
1961	.472		.472
1962	.550		.550
1963	.310	0.022	.332
1964	.140	.330	.440
1965	1.384	.210	1.594
1966	2.528	.925	3.453
1967	3.197	2.484	6.661
1968	10.957	6.878	17.835
1969	8.508	2.873	11.381
1970	4.447	1.082	5.529
1971	3.594	9.788	9.382
1972	6.031	10.918	16.948
Total	43.107	32.460	75.567

Note: Above expenditures do not include production development costs for airplane noise reduction activities totaling over $23,000,000.

MCDONNELL DOUGLAS CORP.,
St. Louis, Mo., September 15, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,

existing four-engine aircraft to increase the bypass ratio of the powerplants. We believe that the alternate concept of massive muffling of present powerplants which are inherently noisy leads ot major cost burdens and inefficiency as well as excessive operational difficulties. This same comment holds true when the use of similar massive suppression is proposed to achieve the very last dB of more modern engines which are quiet to begin with. Modern high bypass engines could, indeed, be further suppressed, but the noise alleviation is so small that it probably would be unrecognizable by the community. Furthermore, it is obtained at a cost in operational economy which will make new aircraft unattractive to domestic investors and foreign purchasers alike.

In summary, we recognize and applaud the national emphasis on aircraft noise reduction. The Industry, without special financial assistance from the Government has made monumental efforts to respond, and is now delivering "quiet" aircraft which have retained the earning power to make them attractive to domestic and foreign airlines. The problem now is to bring the existing airline fleet into complance with the new noise standards which have already been set. This will require Government financing in some form, and the dates for accomplishment must be compatible with this financial support to prevent a disastrous turmoil within our air transport system. We urge that the creators of new legislation recognize the strides we have made, and address the real problem of making our existing fleet suitable for the community. We also urge that the setting of goals for future development remain with the FAA (DOT), ably supported by the technical talent within NASA.

Very sincerely yours,

D. J. HAUGHTON,
Chairman of the Board.

that required noise reduction technology could be developed. Although certainly later than 1975, the timing for this accomplishment is unknown and is completely dependent upon an adequately funded research program. In either case, the noise reduction capability to accomplish this objective does not exist today.

Boeing is taking part in both the nacelle retrofit feasibility program and the new front fan program. Our original estimate for the required new front fan R&D was for about 130 million dollars. We most emphatically endorse pursuing the new front fan concept because of its great promise for meaningful noise reduction as well as airplane performance improvement. However, we are extremely concerned that a partially funded program will not produce timely results.

As you may know, the Aerospace Industries Association (AIA) has been opposed to giving prime responsibility to the EPA for prescribing and amending aircraft noise standards. We consider it inadvisable and potentially dangerous to the traveling public, as well as those living under flight paths to give authority to a new agency to rule on matters that can affect flight safety. Today air transportation has an enviable flight safety record and no action should be taken that puts this in jeopardy.

I share the frustrations that exist relative to the noise problem. Currently we have over 400 scientists, engineers and technicians at Boeing directly involved in noise reduction research and development. The attachment to this letter contains a summary of expenditures at Boeing since 1958 on noise reduction research. Over 43 million dollars of Boeing funds have been spent on this problem. Even though we have made significant progress through the use of these resources, the greatest lesson we have learned is that the problem is complex; and that

Washington, D.C.

DEAR SENATOR TUNNEY: I am writing in response to your letter of September 8 addressed to J. S. McDonnell, concerning provisions of the noise pollution control act (S. 3342) introduced by you and Senator Muskie. Clearly there is too much noise around airports and we are determined to do our part to help.

The attached letter from Jack McGowen, President of our Douglas Aircraft Company, to Jack Shaffer, Administrator of FAA, in response to his request for informal comments on tentative FAA regulations in this area, is a good statement of our position.

I would like particularly to emphasize that the current state of the art in technology makes it impossible to promise today that commercially viable airplanes and engines can be produced which generate far less noise than the requirements of F.A.R., Part 36, without cost and other penalties in excess of what the taxpaying public will accept. Research and development can undoubtedly improve our ability to produce airplanes which generate less noise, but there is no way to reliably evaluate the cost of reaching specific quantitative goals until after adequate research, development, testing and evaluation has been accomplished. I therefore urge that the government place great emphasis on expediting the necessary RDT & E so as to establish what is feasible, and only then stipulate dates when mandatory accomplishment will be required.

The FAA has experience in regulations of this kind, whereas the EPA has little. We would urge that advantage be taken of such experience in establishing the requirements and their administration.

McDonnell Douglas is devoting a great deal of attention to the problem of noise. If you or your staff would be interested in having one of our technical specialists provide a

briefing covering the many complex aspects of this problem, I would be most happy to arrange it.

Sincerely,

KENDALL PERKINS.

DOUGLAS AIRCRAFT CO.,
August 18, 1972.

Hon. JOHN H. SHAFFER,
Administrator, Federal Aviation Administration, Washington, D.C.

DEAR JACK: Your letter of August 11, 1972, in which you discussed a notice of proposed rule making that would require noise levels 10 EPNdB below FAR Part 36, for future production aircraft, has convinced me that you take the airport noise problem as seriously as I do. I really believe we must think in such terms if we are to achieve an air transportation system that meets the requirements for compatibility with communities around our airports.

I'm not suggesting that we know how to accomplish reductions which are in all cases as large as 10 EPNdB, nor am I suggesting that we could accomplish significant reductions by July 1, 1976. However, I believe that the industry and the FAA should get together to determine the noise reductions that can be accomplished and the time required to accomplish them. A quick look at our DC–10 would say we might be able to achieve noise levels between 5 and 10 EPNdB below FAR 36 depending on the reference location. Some of our research programs with your organization and with the NASA may also lead to similar possibilities for the low bypass ratio turbofan powered aircraft. Perhaps additional research may lead the way to the full 10 EPNdB below FAR Part 36.

One word of caution. All our studies show that regardless of how quiet we make the future production aircraft, the overall community noise situation will not benefit significantly until something is done to also reduce the noise of the JT3D and JT8D powplaced by a new generation of quieter aircraft. It is also proposed that new aircraft types manufactured after January 1, 1975 meet a noise level at least 15 EPNdB lower than FAR Part 36.

Because of the very short response time requested in your letter, my comments must be brief and general in nature since there is insufficient time to provide in-depth replies to your proposals.

We do not believe it is possible, either technically or logistically, to retrofit or replace current aircraft with quieter versions meeting FAR 36 noise requirements by January 1, 1976. The existing fleet of aircraft in question currently provides approximately 80% of the present U.S. domestic seat capacity, and we estimate that in 1976 these aircraft will still represent approximately 60% of the domestic seat capacity.

Both the FAA and NASA are funding extensive programs to establish noise reductions possible on 727, 737, DC–9, 707 and DC–8 aircraft through a retrofit program. The FAA retrofit feasibility program includes nacelle acoustical treatment and jet suppressors while the NASA program includes nacelle treatment and new front fan engine modifications. Most of the JT8D powered aircraft (727, 737 and DC–9) could probably be retrofitted with nacelle treatment alone to meet the noise limits of FAR 36. Because these aircraft are at present so close to meeting the FAR 36 requirement, however, the improvement resulting from such action would hardly be perceptible to the human ear, and thus would not provide any appreciable noise relief to the airport communities. The current FAA and NASA programs are planned to accomplish reductions in jet noise as well as fan noise for both JT8D and JT3D powered aircraft in order to obtain meaningful community noise reduction. Provided these programs continue at adequate funding levels, a decision on the appropriate action for a retrofit program is expected by late 1973 or

Please be assured of our vital interest in the noise reduction question. We appreciate the opportunity you have afforded us to comment on your proposal, and we would be pleased to participate in further discussions or in any task force established to further define future requirements for noise certification.

Sincerely,

B. H. TORELL,
Division President,
Pratt & Whitney Aircraft Division.

NORTH AMERICAN ROCKWELL,
El Segundo, Calif., September 15, 1972.

Hon. JOHN V. TUNNEY,
Committee on Public Works,
U.S. Senate, Washington, D.C.
Attention: Mrs. Jane Frank

DEAR SENATOR TUNNEY: In Bob Anderson's absence, I am replying to your letter of September 8 asking for our comments on the additions which are being proposed to the noise pollution control act (S. 3342).

We are, of course, in general agreement that control of airport noise is an important objective and believe that industry would welcome assistance from the Government in the further development of noise abatement technology. However, in view of the present state of the art, we do not believe it is desirable to incorporate firm requirements in federal legislation at this time.

The specific questions which you have asked concerning the technical and economic aspects of retrofit can better be responded to by those companies who manufacture commercial aircraft. Our endeavors have been limited to general aviation aircraft. Airplanes of this type are a smaller part of the overall aircraft noise problem which is dominated by the large commercial aircraft. For one thing, it is not clear what portion of the airport noise problem results from the operation of general aviation aircraft. In this connection, we would particularly welcome the opportunity to work with Government

ered aircraft now in the fleet. Those aircraft must be considered along with future production aircraft. We recognize that the airlines do not have the resources to pay for a noise retrofit program and investigations to develop means of financing such a program should be conducted along with the research to develop the technology.

Frankly, I believe that other modifications to Part 36 that are currently being considered, such as temperature/altitude accountability and requiring future production aircraft to meet Part 36 offer no help to the noise problem and should be dropped in favor of a single modification to Part 36 which addresses the total problem and requires that all practical steps be taken to solve it. I would pledge my support to a program to develop such a modification.

We, at Douglas, will be most happy to work with you and your people both directly and through the Aerospace Industries Association to find solutions to this most serious problem.

With best regards.

Sincerely,

JACKSON R. MCGOWEN.

UNITED AIRCRAFT CORP.,
Hartford, Conn., September 16, 1972.

Hon. JOHN V. TUNNEY,
Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: In your letter of September 8, 1972, you asked for comments on proposed changes by the Senate Public Works Committee to the aircraft noise control provisions of the noise pollution control act (S. 3342). As indicated in your letter, it is proposed that all existing aircraft comply with the maximum noise level standards in Appendix C of FAR Part 36 after January 1, 1976, and that all aircraft which could not be retrofitted economically to comply be retired early 1974. On this basis, aircraft retrofit could not be initiated sooner than 1976 or be completed earlier than 1979.

With regard to the proposal that current aircraft which cannot be economically retrofitted be replaced with new generation quieter aircraft already under construction, there are no new quiet aircraft under development to directly replace the smaller 727/737/DC-9 class of aircraft or the 707/DC-8 aircraft serving low density routes. Such new aircraft are not likely to be available in quantities earlier than the 1980's.

In the case of new aircraft/engine designs, industry does not have in hand either the technology or adequate funds to accomplish a noise level 15 EPNdB lower than FAR Part 36 for aircraft manufactured after January 1, 1975. With strong government support, the technology may be developed during the next few years to accomplish a noise level 10 EPNdB lower than FAR Part 36 for aircraft manufactured in the late 1970's or early 1980's.

We strongly recommend that prior to establishment of aircraft noise standards for future application, a joint task force, consisting of FAA, NASA and industry personnel, be established to recommend the noise levels which can be practically achieved within the 1970 and 1980 time periods. We further recommend that the FAA, for reasons of safety, be continued in the primary role for regulation of aircraft noise, with the EPA taking the advisory role.

As I am sure you know, the United States airlines have been suffering severe economic problems for several years. The financial burden of any prescribed retrofit program which provides no economic return to the airlines presents a major obstacle to its accomplishment, and may require that the government plan a significant role in making such a program financially possible.

agencies to develop the information necessary to determine the kinds of constructive actions which would be required.

Most of the engines for general aviation aircraft are well over ten years in production, and there are few practical engines in the 3,000-pound to 4,000-pound thrust class that would be available in the next few years. For engines in this class, we believe there is limited technical information available with respect to noise reduction. This has contributed to the impracticality of working up economics of retrofit or retirement and replacement.

In general, taking into account the wide spectrum between very small general aviation aircraft and the large commercial airliners as well as the limited technology regarding noise abatement, we believe that it is premature to establish absolute standards by legislation and that the flexibility permitted by regulatory rather than legislative control is desirable. A further point we would make is that separation of authority over noise control from responsibility for operational safety could lead to safety problems.

I am sorry that the timing of action by your committee on this bill does not permit us to give you a more extensive reply.

Sincerely,

WALLACE W. BOOTH.

AEROSPACE INDUSTRIES ASSOCIATION OF AMERICA, INC.,
Washington, D.C., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: We are in receipt of your letter of September 8, 1972, informing us of proposed amendments to S. 3342 calling for new aircraft noise reductions.

First, it is the firm finding of our member

companies, which make up the bulk of the transport aircraft manufacturing industry and as such are amply qualified to make such judgments, that the new aircraft noise reduction schedule of 15 EPNdB below the Part 36 standard by January 1, 1975, proposed in your letter would be impossible to achieve. A 10 EPNdB reduction by 1981 was suggested by the Civil Aviation Research and Development Policy Study (CARD) published by the Department of Transportation. Industry considers this an attainable goal, providing the costly technological development involved continues to receive appropriate funding, public and private.

Second, to prohibit any aircraft which does not comply with the maximum standards in Part 36 by January 1, 1976, from landing in the United States could have the practical effect of ending commercial air service here as of that date.

It is difficult to believe that diminution of progress in either of these areas is the intention of the Committee on Public Works. It would certainly seem that further study of these proposed measures would be in order.

For instance, in response to your inquiry about the current state of technology with respect to front fan treatment in addition to nacelle treatment we can refer you to a NASA contract awarded this year on this very subject. The engine in question is an experimental rather than a production model, however, and the results of that contract will not be available for three years. Furthermore, this is not the only relevant research now underway. As you must be aware, the transport aircraft and engine manufacturers have, at great expense, made tremendous reductions in aircraft engine noise during the past several years and are acutely aware of the need for further reductions. Unfortunately the availability of the technology to accomplish these additional decreases cannot be effectively legislated.

We urge you to delve into the existing airline industry to support, and would require public funding.

(3) The January 1, 1976 date is not feasible. The earliest achievable date in our opinion is January 1, 1978.

(4) There are promising options to reduce the noise level of operations at such points as Los Angeles by altering take-off and approach procedures. These revised procedures offer a reasonable hope for more prompt relief than could be accomplished through aircraft retrofit.

(5) The proposed January 1, 1975 requirement for new aircraft to comply with FAR 36 minus 15dB is unrealistic.

Regarding conclusion (1), we believe that with the knowledge and material available to us today, it appears possible to develop a modification for each type of aircraft now in service so that compliance with these levels can be obtained. This cannot be done, however, without adequate time to design and test the specific hardware to be used. The retrofit design must not only produce the required noise levels, but must also be thoroughly tested to assure continued operational safety and reliability required to maintain airline service in the public interest.

To avoid unnecessary waste of resources, it is necessary to determine which retrofit approach is most effective and desirable. As you note in your letter, there are two basic approaches to noise reduction now being funded by the government: the nacelle and jet suppression treatment and the new front fan design. The latter approach is most desirable from an operational point of view, but it is already clear to us that the conversion cost is much higher. Given the magnitude of the retrofit problem, it would be unconscionable to make a forced choice between these two approaches until thorough testing of both solutions have been completed. This process can be expected to take at least two years at the rate at which the government quired to comply with FAR 36 by January 1, 1976, it would be impossible for us and other airlines to meet the public need for transportation and the requirements of our certificates of public convenience and necessity. Under such restrictions we could not provide service on a majority of the routes we are certificated to serve. While it is more difficult and time-consuming to modify some types of aircraft than others, the January 1, 1976 proposal is, in my opinion, impossible to achieve.

Regarding conclusion (4), we believe that strict compliance with FAR 36 by engine or nacelle retrofit may not be the most effective way to reduce noise. There are several promising options to reduction of noise level by altering take-off and approach procedures. We have already implemented new take-off and approach procedures which have reduced noise exposure, but considerably greater progress can be achieved, we believe, through our program of active testing, with support from NASA, of two-segment approach procedures. We believe it can already be established that noise relief of the magnitude you seek is possible by the use of this technique. This approach offers the best hope, in my opinion, of reasonably prompt relief in the Los Angeles area.

Noise abatement achieved by revised approach procedures could resolve a significant concern over another aspect of the retrofit proposal. Specifically, the difference between the current noise levels of certain aircraft (in our case the 727's) and the requirements of FAR 36 will be so minimal as to be almost imperceptible to the public. It would be a tragic waste of resources to effect this retrofit only to find that the public wholly unsatisfied. Relief through modification of approach procedures may consequently offer a better solution than retrofit, both in terms of cost impact and more prompt conformity with FAR 36. This is certainly true with respect to the quieter of the older aircraft, such as the 727's, and might provide an ac-

knowledge on this subject and for your convenience include a copy of an article on the subject which appeared in the Association's Aerospace Magazine.

In addition, we would again recommend that the FAA, for reasons of safety, exercise the primary responsibility, in consultation with the EPA, for setting aircraft noise standards. In the present context, we would urge also that the standards-setting agency not be limited by legislated noise reduction goals.

Yours very truly,

KARL G. HARR, Jr.

AMERICAN AIRLINES,
New York, N.Y., September 15, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for the opportunity to comment on the proposed modifications to the Noise Pollution Control Act (S. 3342.) We are mindful of the need to help develop solutions to the noise problem. Our commitment to this goal is illustrated by the fact that American Airlines developed the noise abatement specifications that were built into both the DC–10 and L–1011.

Because of the admitted urgency of finding a solution to noise developed by our older aircraft, we have been studying this matter in considerable depth from both the technical and financial point of view. We have come to certain conclusions which I am pleased to pass along to you:

(1) We believe it is technically possible to modify aircraft now in service to meet FAR 36 specifications, if sufficient time is made available to do so.

(2) The cost of retrofit, even within the minimum time limits that we consider achievable, is beyond the capability of the has been funding these studies.

When the preferred approach is determined, our engineers estimate that it will take at least three years from the time of delivery of the first kit to install a modification on our complete fleet, assuming that all air carrier airplanes were simultaneously modified. The cost to our industry of attempts to speed up this time span increases at an enormous rate and I would estimate that our costs would double if, for example, a two-year time period were required. For the same reason, a considerable reduction in cost would be possible if the time period were extended,

With regard to conclusion (2), the cost of retrofit, we estimate that to comply with these programs by January 1, 1978, which we believe to be the earliest achievable date, the cost to the American Airlines would range from $120 to $315 million, depending on whether nacelle treatment or a new front fan approach is chosen. We believe these figures, expressed in 1972 dollars, are accurate to within plus or minus 20%. American Airlines cannot conceivably fund a program of this magnitude. The suggested alternative, which is to replace these airplanes by that date, is also unworkable. We would be required to retire ninety-seven 707-type aircraft. Even assuming that our route structure and traffic demand would permit replacement of the lift provided by these aircraft with DC–10's (which is not the case), we would have to purchase fifty-seven new DC–10's at a cost of approximately $1.1 billion. Faced with these staggering costs, which we believe are entirely realistic estimates, I cannot in any good conscience support a retrofit program of this nature, unless it is accompanied by an outright financial grant to make this modification in the public interest.

The foregoing explains the basis for our conclusion (3) that the proposed January 1, 1976 date is not feasible. If we were receptable solution to the problem of the 707 and DC–types as well.

Regarding our conclusion (5) the proposed requirement that new types of aircraft to be manufactured after January 1, 1975 comply with FAR 36 minus 15dB is in the opinion of our engineers totally unrealistic. Such a requirement would necessitate the use of a new engine vastly quieter than any now existing. It has been our experience that an absolute minimum of four years is required to develop such a new engine even when the technology is in hand to permit commitment to the project.

It is also worth pointing out that prohibiting operation to the United States of aircraft of foreign registry that do not comply with these noise levels would present a most difficult international problem for our country. Foreign governments could hardly be expected to permit U.S. carriers to serve their countries if the operation of their own flag carriers to the U.S. was prohibited.

Sincerely,

GEORGE A. SPATER.

TRANS WORLD AIRLINES,
New York, N.Y., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate, Committee on Public Works,
Washington, D.C.

DEAR SENATOR TUNNEY: TWA is pleased to have this opportunity to respond to your letter query of September 8 on the control of aircraft noise.

As you know perhaps, TWA has been instrumental and successful through the years in forcing the development of quieter and more pollution free aircraft. TWA, along with several other leading airlines, has always contractually required the incorporation of the latest noise attenuation technology that is practical and effective when procuring aircraft. This continues to be our

[p. S17998]

policy and our objective. Current examples of good progress are the Boeing 747 and Lockheed 1011.

TWA has also studied the various programs and designs targeted toward the development of retrofit technology which have existed throughout the jet age. It is also familiar with current programs including the front fan and nacelle treatment programs mentioned in your letter. In fact, TWA just completed a comprehensive review of all known possibilities and programs last week.

Through the years, TWA has encouraged the development of those technologies which stand to reduce external aircraft noise. It was hoped that by now practical designs for effectively reducing noise from the older aircraft in our airport communities would be in hand. This is not the case and, unfortunately, little prospects for early practical solutions exist. However, all reasonable efforts to advance applicable technologies and to develop suitable designs should continue.

As matters now stand, either the predicted noise improvements are so low as to be completely cost ineffective or they are impossibly expensive and would occur in a time frame that would not permit completion of retrofit programs prior to the 1977–1981 time period. This is too late since by then the majority of the older narrow bodied four-engine jets will either have been retired or will be on the eve of retirement from commercial service.

You may be interested to know that four-engine aircraft retrofit capital costs are estimated to run from approximately $1,200,000 per airplane for the quiet nacelle to approximately $1,900,000 per airplane for the new and as yet undeveloped front fan. Parts obsolescence costs, revenue loss from added fuel consumption and/or empty weight increases, and loss of utilization during the conversion period are all in addition and would total a very appreciable amount. The additions to S. 3342 would seem unnecessary and duplicative.

TWA respectfully suggests that prior to the inclusion of any language in S. 3342 on aircraft noise alleviation requirements or retrofit schedules that an informal meeting be held between you and/or your staff and selected airline representatives. Such a meeting could serve to discuss and clarify significant facets of retrofit to a greater extent than is practical in this letter. If you consider such a meeting appropriate, TWA would, of course, be happy to participate.

Very truly yours,

F. C. WISER.

INSTITUTE OF NOISE CONTROL ENGINEERING,
Cambridge, Mass., September 18, 1972.

Senator JOHN V. TUNNEY,
New Senate Office Building,
Washington, D.C.
(Attention: Mrs. Jane Frank).

DEAR SENATOR TUNNEY: I am pleased to respond to your letter of 12 September 1972 in which you solicit my views in regard to the Noise Pollution Control Act (S. 3342). The comments offered herein are based on assessment of the status of aircraft acoustics technology and regulation available to me as a Member of the Aeronautics and Space Engineering Board of the National Academy of Engineering and upon jet engine and airport noise research in studies performed by me and my colleagues as Bolt Beranek and Newman Inc.

The current state of technology supports the addition of language to S. 3342 that, "No aircraft could land at U.S. airports after 1 January 1976, unless such aircraft complied with the maximum noise level standards in Appendix C of Part 36 of the Federal Aviation Regulation." However, the requirement that new aircraft meet a noise level 15 EPNdB lower than the FAR Part 36 standard by 1 January 1975 is incompatible with development, manufacturing, and certification status of acoustical technology pertinent to the subject of aircraft retrofit and new aircraft development.

Sincerely,

LEO L. BERANEK,
President, INCE.

Mr. BROOKE. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, line 21, following "SEC. 502.", insert "(a)".

On page 91, following line 14, add the following subsection:

"(b) The Secretary of Transportation, after consultation with the appropriate Federal, State, and local agencies and interested individuals, shall conduct a study of the means of financing the retrofitting of existing jet aircraft (excluding aircraft owned or operated by any military agency) in order to carry out the purposes of this part, and shall make recommendations, taking into consideration what is economically reasonable, technologically practicable, and appropriate for the types of aircraft and aircraft engines to which the recommendations will apply. He shall report on such study to the Committees on Interstate and Foreign Commerce, and Ways and Means of the House of Rep-

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capital costs alone would result in a minimum increase in seat mile cost of from approximately 7.0% to 13%. Capital required for TWA aircraft alone could total as much as $300 Million. This quite obviously would be totally unacceptable.

Costs and timing indicated herein are preliminary estimates since neither the quiet nacelles nor the new front fans are fully developed or have been tested in flight. The quiet nacelle being developed by Boeing Wichita will not fly until next year and the new front fan won't be in the air for several years and then only if engine ground tests are successful. It is of the greatest importance that such devices be tested for acceptibility by human ears on a controlled empirical basis. History shows that meters and forecasted results simply are not reliable in this regard. In no event should retrofit programs or implentation schedules be adopted until this is done.

Thus, summarily, the suggested FAR 36 compliance date of January 1, 1976 for all aircraft operating into U.S. airports is totally unrealistic and cannot be achieved. At this time it is impossible to rationally set a date for the mandatory achievement of this objective. Applicable technologies must be advanced, noise reduction effectivity determined by flight tests and economic feasibility established first. Any language additions to S. 3342 along the lines suggested in your letter of September 8 are premature and ill advised.

As to the proposed requirement that new types of aircraft manufactured after January 1, 1975 comply with noise standards 15 EpnDB less than FAR 36 App. C., TWA understands this subject is currently being considered by the FAA. TWA doubts that the attainment of a 15 EpnDB reduction is realistic by then and suggests that a 5 to 8 EpnDB reduction would be more realistic. However, since action is under way, language tion schedules and possibly beyond the state of art of noise-control technology for large transport aircraft. A careful look at available noise control technology and at the length of time it takes for manufacturing and certification schedules to be accomplished, convinces me that new aircraft could realistically be required to meet noise regulations that are 10 EPNdB lower than FAR Part 36 by 1 January 1978. In making this statement I have not balanced the technological and time schedule against economic considerations because I feel that this balance must be made by government and not by engineering people. A 15 EPNdB reduction below FAR Part 36 might be feasible by 1982, but further study is necessary to confirm this statement.

I strongly recommend that the Environmental Protection Agency be given the responsibility for specifying and enforcing noise exposure criteria for communities near airports. Although, the Federal Aviation Administration and the Department of Transportation along with NASA have supported technology development in this area, the FAA has shunned the responsibility for setting aircraft communit, noise exposure criteria. The EPA should be given the authority for selecting and enforcing these criteria, but the specific methods and individual aircraft numbers involved in meeting these goals should be selected in collaboration with NASA, which has responsibility for aeronautics research, and with the FAA, which has the ultimate responsibility for the refinement and application of aviation technology to the civil air transportation system.

If the Noise Pollution Control Act is still an issue during the next session of Congress, my colleagues in this country, in particular the NAE Board, INCE, and Bolt Beranek and Newman Inc. and other research companies would be pleased to provide you with detailed comments in regard to the present resentatives, and the Committees on Commerce, Finance, and Public Works of the Senate by July 1, 1973, together with his recommendations for whatever legislation may be required.

Mr. BROOKE. Mr. President, I believe this amendment is noncontroversial, and I hope that the distinguished Senator from California and the distinguised Senator from Delaware will agree to accept it.

This amendment requires the Secretary of Transportation to submit to the Congress by next July 1, a report on the various means of financing the retrofitting of jet aircraft, and to recommend appropriate legislation to achieve that goal.

While the Federal Government already has ample authority to promulgate noise standards for existing aircraft, no action has yet been taken officially to finance the means of meeting these standards. Depending on the extent of retrofitting, the estimated cost will be between one billion dollars and two and one-half billion dollars. And, no matter what the ultimate financing plan, the Federal Government will have a role to play, if only because airlines are a regulated industry.

The retrofitting/financing issue already has received considerable attention in Congress, the executive branch, and the industry itself.

On August 2, 1971, I introduced S. 2398, which would provide grants to the air carriers to pay for up to two-thirds of retrofitting costs. The source for these funds would be the trust fund created by the Airport and Airway Development

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Act of 1970 as well as an increase from 8 to 10 percent in the air user tax.

My colleague Senator CRANSTON introduced S. 1566 on April 19, 1971. This bill would finance a retrofitting program by means of guaranteed loans. In addition, there have been other proposals that would provide financing through fare increases, stepped-up tax depreciation, and assumption of the costs by the airlines themselves, among others. There are advantages and disadvantges to each of these plans, and I am confident that I speak on behalf of both Senator CRANSTON and myself when I say that neither of us is wedded to our own proposal. Ultimately, I believe that the financing package will include a mix of several of the proposals that have been made.

The amendment which I now offer would allow us to have the benefit of the views of the executive branch on this crucial matter. In fact, it is my understanding that such a study is already under review within the executive branch, including the Department of Treasury and the Office of Management and Budget. Thus, adoption of this amendment will not require the executive branch to undertake a new study. It will simply set a date of July 1, 1973, for its completion, and require that legislative recommendations be made to the Congress if the Secretary of Transportation finds legislation to be necessary.

The amendment designates that Secretary of Transportation conduct the study because his Department has been in the forefront of administration efforts to reduce aircraft noise. Specifically, the

So I am going to be able to accept this amendment on behalf of the committee. I have discussed the matter with the distinguished Senator from Delaware, and he is also agreeable to having this amendment accepted by the committee.

We expect that any financing study will consider proposals like a ticket tax on airline users and not just consider Government subsidies.

Mr. BROOKE. The Senator is correct.

Mr. TUNNEY. I know that the Senator from Massachusetts feels the same way.

Mr. BROOKE. Mr. President, I thank the distinguished floor manager of the bill for accepting the amendment. I want to say again that I am very much encouraged that the Senator from California (Mr. TUNNEY) and the Senator from Delaware (Mr. BOGGS) are in the leadership role on this particularly important issue because it is so important to so many people across this country to have their understanding and sympathetic leadership on this important legislation. It is a matter of great consolation to the people who have waited and suffered so long to know that hope is at last on the way.

I pledge if I am re-elected to the Senate to continue to work very closely with them during the years ahead.

Mr. TUNNEY. Mr. President, I thank my friend so much for those words. He has certainly demonstrated his leadership today and in years past by calling this matter continually to the attention of the Congress.

Mr. President, I yield back the remainder of my time.

Mr. BROOKE. Mr. President, I yield

Concorde were permitted to fly coast to coast at supersonic speeds it would create a path of successive sonic booms 50 miles wide and 3,000 miles long. According to conservative estimates, these sonic booms could cause $35 million to $160 million in property damages every flight.

My second proposal, which I have just introduced as an amendment to this bill, prohibits these same aircraft from landing in U.S. airports unless they meet the same noise emission standards which now are required for subsonic aircraft under FAA regulations.

At current levels, the Concorde produces 10 times the noise emitted by a 747. A single Concorde produces as much noise when it lands as 10 747's. Aircraft noise is measured in effective perceived noise decibels. FAA regulations now permit a maximum noise level of 108 EPNDB for subsonic aircraft. Measurement of the emission level of the Concorde places it in a range between 114 and 120 EPNDB.

When measured on a logarithmic scale, as noise calculations are made, the Concorde will produce between six and 12 times more noise than is permitted for subsonic planes. In terms of the total noise environment around an airport, this would be a dramatic step backward. The progress we have made toward making our environment more livable will suffer a serious setback. Though a single Concorde produces the same noise when it lands as 10 747's, it carries only 150 passengers compared to 350 carried by a 747. That means it would need to make more than twice the number of flights to deliver the same number of passen-

Federal Aircraft Noise Abatement Plan has been developed by the Office of Noise Abatement within the Office of the Secretary of Transportation.

The amendment also authorizes the Secretary to consult with other appropriate Government and private agencies and individuals. Since the Federal Aviation Administration is within the Department of Transportation, it goes without saying that the FAA would be asked to contribute its extensive expertise in the formulation of the financing proposals.

Again, Senators should understand that this amendment complements plans already established by the executive branch to develop both the technology and financing of aircraft retrofitting. Its effect is simply to emphasize Congress continuing interest in this vital issue, and to make sure that Federal programs will proceed quickly, so that citizens across the Nation can be relieved as soon as possible from the bombardment of jet aircraft noise.

Mr. TUNNEY. Mr. President, I have had an opportunity to look over this amendment with the distinguished Senator from Massachusetts. I think it is a good amendment. It demonstrates once again the leadership role that the Senator from Massachusetts has played in this area. It is quite true that studies are going on in the executive branch. However, the studies are no good unless they are completed and unless the information is available to the public at large and to the Congress in particular.

back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 95, between lines 21 and 22, insert the following:

SUPERSONIC AIRCRAFT

Sec. 509. No civil aircraft capable of flying at supersonic speed shall land at any place under the jurisdiction of the United States unless in compliance with the noise levels prescribed for subsonic aircraft by the Administrator of the Federal Aviation Administration and in effect on September 1, 1972.

Mr. CRANSTON. Mr. President, in March of this year I introduced two proposals restricting supersonic transports such as the English-French Concorde and the Russian TU-144 in flights over and landings in U.S. territory.

The first of my proposals, prohibiting flight at supersonic speeds over the United States and its territorial waters or the contiguous zone, has been incorporated into the bill we are now considering and I think that is one of the fine features of this measure.

I will not take up the time of this body in outlining the need for such a restriction, other than to point out that if the gers while making 10 times the noise.

The high level of noise produced was one of the major reasons the American SST was discontinued. Can we apply lesser standards to European supersonic transports? The aircraft noise problem was realized, yet work continued on the Concorde. Britain and France had no reason to believe our position would be different on the Concorde than it was on the American SST. If the Concorde cannot meet acceptable noise standards, then it should not be allowed to land in the United States.

Mr. President, I want to stress that this amendment does not raise the questions about jurisdiction of FAA that have been involved in some of the controversy relating to this bill. I believe it is vitally necessary to protect both the American aircraft industry and the people who live around airports from this particular problem and the threat it poses to them.

If these planes start coming into American airports no one will know exactly what they are and there will be a new uprising at and around airports that will threaten our ability to continue airport operations; there will be new lawsuits and hang-ups, and people around airports will be unable to distinguish between new planes bringing this new noise and American planes.

All of us will suffer as a result.

I urge my colleagues to apply the same standards to supersonic aircraft as we mandated for subsonic aircraft.

Mr. TUNNEY. Mr. President, I have had an opportunity to review this

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amendment with my distinguished senior colleague. I have not had an opportunity to consult with the distinguished Senator from Delaware. As far as the majority side of the committee is concerned, I can accept this amendment.

I think it is clear that we could require the same compliance for supersonic transport planes that we require for other airplanes that are landing at American airports. It is ony fair and there is no reason why the citizens of our country who live adjacent to international airports should be subjected to the deafening roar of supersonic aircraft simply because it is from a foreign manufacturer and owned by a foreign airline.

So on behalf of the majority of the committee——

Mr. CANNON. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. CANNON. Mr. President, before the Senator accepts the amendment I would like to sound a note of caution. This type amendment can be very important with respect to international negotiations and the international aspects of air transportation. I would simply caution my friends that I hope they have considered this in consultation with the State Department to try to take into full account what the implications are that might be involved.

I can see that if a foreign air carrier is denied the right to fly any place in the United States with a particular aircraft, they might then impose the same type of refusal to fly all of our aircraft in foreign countries. This could be much more

Mr. CANNON. Mr. President, will the Senator yield further?

Mr. TUNNEY. I yield.

Mr. CANNON. This is certainly a subject that comes under the jurisdiction of my Aviation Subcommittee. If the Senator is not of a mind to pres this amendment at this time I would assure him that we would hold hearings on this very subject next year. We want to take whatever steps should be taken, but my caution comes from the fact that this is an important area of concern to our State Department and it is an important area of concern to U.S. carriers, and perhaps there should be some area defining what could be done at someplace in the country that would not be affected. If the Senator would care not to press the amendment my committee can hold hearings next year and consider these aspects and then if it is of a mind to do something, we would have the time because they are not going to be able to fly in here until next year.

Mr. CRANSTON. I thank the Senator for his concern. It would seem to me that if we were producing planes that would be as noisy as foreign supersonic planes when landing and taking off at subsonic levels of speed, we would recognize the right of other countries if they have standards to exclude them.

I do not believe other nations will retaliate against us in a totally arbitrary way not taking into account the noise factor of our planes.

Therefore, I do not believe we will have this sort of problem that has been suggested as a possibility. Certainly, I grant that it is a possibility. What I amendment, and I want the record to show that I do.

In that connection, I want to make one point, and that is that I am deeply distressed at the unwillingness of the FAA to give what I regard as adequate assurance to the neighborhoods and communities near airports of its consideration of their concerns about expansion, noise pollution, and other nuisances that are involved.

I have specifically in mind the community of Morris County, N.J., where Morristown Airport is located. The city of Morristown has an airport which is not within the city's own geographical boundaries, but outside the community where it is located and others adjacent to it, and is properly concerned about expansion without due consideration of the needs and interests of the residents.

I have been unable to get the kind of assurance that I think these communities are entitled to from the agency, but I am not going to give up trying.

I fully support the amendment, partly on that account, but in general on its own merits.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. TUNNEY. Would the Senator be prepared, inasmuch as a yea-and-nay vote is now ordered, to yield back the balance of his time?

Mr. CRANSTON. Certainly. First, I want to take a minute to make one point.

In further reply to the Senator from Nevada in regard to the questions he raised, no supersonic planes will be

devastating to us than to them because we have the largest air carrier system in the world today, and it would be our carriers that would be affected if retaliatory action were taken.

Again, I am sounding a note of caution. I am not going to call for a rollcall vote if the Senate wants to accept it, but this is something that may have very grave implications in the field of international air transportation and may result in a very detrimental way to U.S. air carriers if it is adopted without some provision made, some escape provision or some outlet being taken into consideration so that these aircraft might be able to fly to some particular location in this country.

Mr. TUNNEY. I appreciate the Senator from Nevada raising those points. I think they are points that have been considered by the Senator from California. I think that they are strong points.

On the other hand, I cannot help but feel, after the Senate rejected a domestic SST which would have been heavily subsidized by our Federal Government, that we should say we are not going to allow our noise emission levels, which are health levels, to be violated by a foreign SST which is landing at our airports.

It would be my hope that we would not allow any American airline that violates our noise levels to land at our airports, so it is even-handed that we ask that foreign aircraft landing at our airports be subject to the same standards of health and welfare that our domestic lines are required to adhere to.

would prefer to do is to proceed with the amendment, but also to proceed in conjunction with the Senator to see if there might be problems that could indicate a modification of the provision.

I am afraid if we drop this matter it might not be possible for a vehicle to exist to prevent this problem affecting people who live around airports and in the long run we may find the American aircraft industry suffers as a result of the noise, with the accompanying lawsuits that would tie up the airports.

My friend and colleague from California has expressed a willingness to accept the amendment, and I deeply appreciate it. I took a moment of time to talk to the Senator from Delaware representing the minority on the committee. He said as far as he is concerned, the minority on the committee is perfectly willing to accept the amendment.

Mr. CASE. Will the Senator yield?

Mr. TUNNEY. I am delighted to yield to the Senator from New Jersey.

Mr. CASE. I ask that my legislative clerk, Mr. Gambock, be permitted to be on the floor throughout the session today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Bill Hancock of my staff be allowed on the floor today and tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. I support the Senator's

ready to land in this country until 1975 or 1976. That would allow adequate time for the sort of hearings and inquiries that the Senator would like to make, to see if it is advisable to make any modifications.

Second, it will serve notice on the manufacturers of supersonic planes that they must reduce their noise. They have the capability technically now to do this. This will give them time to do that, and then we will not have a problem.

Mr. TUNNEY. Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from West Vir-

ginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 62, nays 17, as follows:

[No. 553 Leg.]

YEAS—62

Allen	Eagleton	Packwood
Anderson	Ervin	Pastore
Bayh	Fulbright	Pearson
Beall	Gambrell	Pell
Bentsen	Gravel	Percy
Boggs	Griffin	Proxmire
Brock	Gurney	Ribicoff
Brooke	Hansen	Roth
Buckley	Hart	Schweiker
Burdick	Hartke	Smith
Byrd, Harry F., Jr.	Hughes	Sparkman
Byrd, Robert C.	Humphrey	Spong
	Inouye	Stennis

railroads and motor carriers which operate from coast to coast and through all the States, and in hundreds of communities and localities.

Without some degree of uniformity, provided by Federal regulations of countrywide applicability which will by statute preempt and supersede any different State and local regulations or standards, there would be great confusion and chaos. Carriers, if there were not Federal preemption, would be subject to a great variety of differing and perhaps inconsistent standards and requirements from place to place. This would be excessively burdensome and would not be in the public interest.

At the same time, States and localities ought to have and retain the power to develop and enforce noise standards and regulations that are needed and designed to meet special local situations even though such standards and regulations may differ from the Federal rules.

The problem, of course, is to strike a proper balance that will take account of and protect all of these interests.

My amendment will do this. In essence it merely clarifies the intention of the bill as already stated in the committee report at page 19. The Federal regulations will, as a general proposition, supersede and preempt State and local standards that are different, but States and localities would be left with the right to establish and enforce such differing standards and controls, and even license or restrict the use and operation of equipment, to the extent necessitated by special local conditions and not in conflict with the Federal regulations. These

Do I correctly understand that the amendment as modified reads "necessitated by special and local conditions or"?

Mr. CANNON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. CANNON. May we have some kind of explanation?

Mr. HARTKE. This amendment applies to an interstate carrier that moves across the Nation. It provides that they shall not be subjected to and harassed by unreasonable standards in separate localities. It provides that local communities can still have standards which are more strict than those at the Federal level, but that there shall be a standard in the regulations that shall be governed by such items which are necessities to deal with the local noise conditions. Otherwise, the trains and the carriers coming through could have 75 different regulations which would apply to them.

Mr. CANNON. Do I correctly understand, then, that the Senator is modifying the preemption provision that is now in the bill? It says that a local community could establish a different and more stringent standard than the national standards?

Mr. HARTKE. It would be a limitation on the local communities to the extent that it was necessitated by local conditions. In other words, we need some type of national standard for these carriers which are moving from State to State.

Mr. CANNON. I still do not understand.

Let me ask the Senator this: Does the amendment say that the local commu-

Case	Jordan, N.C	Stevens
Chiles	Jordan, Idaho	Stevenson
Church	Mansfield	Symington
Cooper	Mathias	Talmadge
Cotton	Miller	Thurmond
Cranston	Mondale	Tunney
Dole	Montoya	Weicker
Dominick	Nelson	Williams

NAYS—17

Aiken	Fong	McClellan
Bellmon	Hollings	Moss
Bennett	Jackson	Saxbe
Cannon	Javits	Taft
Eastland	Long	Young
Fannin	Magnuson	

NOT VOTING—21

Allott	Harris	Metcalf
Baker	Hatfield	Mundt
Bible	Hruska	Muskie
Cook	Kennedy	Randolph
Curtis	McGee	Scott
Edwards	McGovern	Stafford
Goldwater	McIntyre	Tower

So Mr. CRANSTON'S amendment was agreed to.

Mr. HARTKE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Line 1 on page 98, insert after the words "to be" the words "necessitated by special local conditions and . . ."

Line 12 on page 100, insert after the words "to be" the words "necessitated by special local conditions and . . ."

Mr. HARTKE. Mr. President, one of the basic purposes of title V of this bill, as explained in the committee report, is to assure the maximum practical uniformity in regulating the noise characteristics of interstate carriers such as the determinations, again in order to achieve desirable and reasonable uniformity in carrier equipment and carrier operations, would be subject to review by the Environmental Protection Administrator in consultation with the Secretary of Transportation.

Mr. President, I have discussed this matter with the manager of the bill, and I think the wording of the bill is in conformity with what the manager thinks is the intent of the bill.

Mr. TUNNEY. It is my understanding that this amendment would substantially strengthen the Federal preemption.

Mr. HARTKE. Mr. President, I ask unanimous consent to modify the amendment to delete the word "and" at the end of the sentence and include the word "or".

The PRESIDING OFFICER. The amendment is so modified.

Mr. TUNNEY. Could the Senator indicate what the effect of that modification of his amendment would be?

Could the clerk restate the amendment?

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

Line 1 on page 98—insert after the words "to be" the words "necessitated by special local conditions and . . ."

Line 12 on page 100—insert after the words "to be" the words "necessitated by special local conditions and . . ."

Mr. TUNNEY. That was my understanding of the original amendment.

nity can modify by reducing or increasing the amount of the national standard that is prescribed by either EPA or by EPA and the FAA?

Mr. HARTKE. No. It says, in effect, that the Federal Government shall preempt, generally speaking, all the local situations to the extent that they prescribe the standard. If a local community, under the bill presently, wants to prescribe standards which are at a higher level than Federal standards, it is permitted to do so.

This amendment says that shall be permitted only to the extent necessitated by local conditions—in other words, that they cannot put an unreasonable burden on a train, a bus, or a motor carrier coming through a community. Otherwise, there will be chaos in this industry. All of this is subject to the ultimate control of the Environmental Protection Agency. But they cannot lower the standards.

Mr. TUNNEY. I should like to make sure that I understand what the difference is between the amendment as originally offered and as modified.

Mr. President, could the clerk restate the amendment as modified?

The PRESIDING OFFICER. The clerk will state the amendment as modified.

The assistant legislative clerk read as follows:

Line 1 on page 98—insert after the words "to be" the words "necessitated by special local conditions or . . ."

Line 12 on page 100—insert after the words "to be" the words "necessitated by special local conditions or . . ."

[p. S18002]

Mr. TUNNEY. The Senator has discussed this matter with the committee staff, and it is my understanding that the amendment would not strengthen the preemption as it is in the bill. Is that correct?

Mr. HARTKE. The amendment still would provide that the Federal regulations would generally rule. The bill provides at the present time that local standards can be provided which are at a higher level than Federal levels.

This amendment says, basically, that to the extent that they are necessitated by special local conditions, they can do so. In other words, when you have a motor carrier going through, and if they are following the Federal standards and then are going to go ahead and have some local community put in an unreasonable standard, you might stop the whole operation of the interstate carrier.

This amendment also provides and still preserves that any regulation of this kind, before the preemption by the Federal Government would be effective, would still be subject to review by the Department of Transportation and by the Environmental Protection Agency.

In other words, the intent of it is in general accord with the bill, but at the same time to provide some type of uniformity for these interstate carriers.

Mr. TUNNEY. The committee, on page 19 of its report, indicated that the Federal regulatory program for railroads under this part completely preempts the authority of the State and local governments to regulate such noise after the effective date of adequate Federal standthe amendment, unless we have it cleared up, could establish something that would be absolutely impossible for buses or tracks to go through that territory. That is the trouble with this. We are getting into it so deeply that all the cities and towns now have regulations. I think we had better know what we are doing here. Sometimes, I think, some people around here would like to tie up all transportation because somebody makes a noise. But if one starts an engine running, it has to make some noise. I do not like noise. No one else likes noise either, but if we are going to start out making all these regulations about noise, that might tie up the whole thing. I do not know whether this amendment does that. We have preempted local people many times. That is traditional, particularly with many standards, and if they want to be tougher they can, but there should be a minimum. Is that what the Senator is trying to do?

Mr. HARTKE. That is right. We have done the same thing. This is what the framers of the bill intended. That is what is sought in the report. What we are saying is that we are not creating an unreasonable burden but at the same time we want to protect the rights of the Federal Government to proceed to establish the standards.

Mr. MAGNUSON. We have gone through this for years. It used to be that every State had different regulations on trucks as to the weight, size, how they would go, the number of axles, and so forth. At one time there were 36 different regulations. A truck going between have we driven around and there will be a big sign "Quiet, hospital zone"?

Mr. TUNNEY. This would give the Administrator——

Mr. MAGNUSON. A truck slows down for a little bit and does not make as much noise. But we are getting deeper into things here. Who will handle all this?

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Michael Helfer of my staff be permitted the privilege of the floor during debate on this bill and the spending bill.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I should like to say in conclusion that I have studied this amendment and it in no way violates the principle of preemption which the Senator was pushing for as part of the bill. As a matter of fact, the language suggested by the Senator from Indiana (Mr. HARTKE) is almost the exact language in the committee report and has now been put into the bill.

Mr. MAGNUSON. That might be a step forward but on some of these things we should watch what we are doing here in the last few hours of this session.

Mr. JORDAN of North Carolina. Mr. President, would this permit the EPA Director to tell the man on the freight train not to blow his whistle going through a town or what the noise level should be?

Mr. TUNNEY. He has to do it in conjunction with the Secretary of Transportation.

ards, except where the administrator determines it to be necessitated by special local conditions or not in conflict with the regulations under this part.

Do I correctly understand that what the Senator is doing is merely clarifying in the bill the intention of the committee as expressed in the report? As I read the language, it would seem to be doing just that.

Mr. HARTKE. That is exactly right. In other words, it follows the intent of the report. It follows the intent of the bill, generally speaking. The wording must be changed to be in accord with the intent of the report as well.

Mr. TUNNEY. The committee clearly wanted to allow it, but to make exceptions if it is determined it was necessitated by special local conditions.

Mr. HARTKE. That is exactly right.

Mr. TUNNEY. As I understand the language, it is necessitated by local conditions that they are not in conflict with regulations promulgated under the bill and is consistent with what they intended.

Mr. HARTKE. That is right.

Mr. MAGNUSON. Mr. President, that is the trouble with the bill. It has not been thought out properly in many respects. Now we are getting down to surface transportation, and if we do not watch out, it will completely deny—there are 50 different regulations on interstate trucks, or railroads, or buses traveling across the country. We can have some minimum standards. The cities and towns now have their own standards. Some one city or some one town under States, going across the country, might have 15 different things to do, such as throwing off part of the cargo, or doing this or that. We worked for years through State organizations, and finally we have pretty much uniform laws now.

If this is going to be a uniform law on noise relating to surface transportation, that is fine——

Mr. HARTKE. That is what it does.

Mr. MAGNUSON. A number of towns today have certain ordinances that a railroad train cannot blow its whistle going through at night because it will wake the people up and that will be disastrous to them, because they could not get back to sleep. Many things happen on account of that. Many, many things happen. We finally had to straighten that out. I hope that this will be a step toward uniformity in this whole field. But I do not know whether it will be. Does the Senator from California think it will be?

Mr. TUNNEY. I have reviewed the amendment and it is in comformity with what the committee intended. The report states there is a complete preemption and also orders the administrator in conjunction with the Secretary of Transportation to grant exemptions where there are special local conditions. So it is clear it is a total preemption. We should also recognize that there may be local conditions which would necessitate that the national standard should not apply.

Mr. HARTKE. That is a local ordinance.

Mr. MAGNUSON. How many times

Mr. JORDAN of North Carolina. Yes. In other words, we will tell the man on the freight train how many times he can blow his whistle, two short, or three long, or whatever it is, or not three long. This is going to get us into hot water wherever we go on this. I think it is totally beyond what we started out with on this airport bill.

Mr. TUNNEY. The reason we put this language into the bill was that we wanted to make it clear that it was Federal preemption for interstate trades and the railroads. It was not initially in the bill, so we put in the preemption so that we would give the railroads and the carriers some awareness and some security that they would not have to abide by 50 different State jurisdictions and Lord knows how many tens of thousands of local jurisdictions. It is in the bill now. It is a complete preemption.

Mr. JORDAN of North Carolina. Then this applies to trucks, automobiles, to everyone. They are all in there.

Mr. TUNNEY. Mr. President, I yield back my time.

Mr. HARTKE. I yield back my time.

The PRESIDING OFFICER (Mr. BEALL). The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. BEALL). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment as amended.

[p. S18003]

The amendment as amended was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CANNON. Mr. President, it is with great reluctance that I support the provisions of this otherwise very fine bill that relate to the control of noise from aircraft. As the Senate knows, this bill was only very recently reported by the Public Works Committee and because of the lateness of the date the Commerce Committee and the Aviation Subcommittee, which I chair, has had no opportunity whatsoever to formally consider it, nor have we had a chance to hold hearings on some of the issues which the bill presents.

Mr. President, the consideration of this bill in the form we are looking at today is a dangerous precedent in the legislative process. This bill has never been considered nor have we heard any witnesses on the vital aspects of air transportation and the interests of safety and reliability of transportation as affected by the bill. The Committee on Commerce has sole and total jurisdiction over civil aeronautics, we have the responsibility to protect the safety of the public from transportation disaster—airline crashes—as well as from unwarranted noise, but Mr. President, we are in a position of having a bill forced on us at a late hour in this session because of the fact that the American public and this Congress wants relief from noise.

Mr. President, the goals of this legislation are laudable and every Member of the Senate, of course, can support them. in the bill. While I appreciate very much the support and the kindness shown me and the committee on this matter by the Senator from California, I still have grave concern about the bill itself. The Committee on Commerce in executive session decided that while it would waive jurisdiction of the bill, it would offer a floor amendment substituting the House passed language on aircraft noise control to the provisions in the Public Works bill. After considering the House language we found it to be responsible, workable and a step forward in the regulation of aircraft noise and a program that all could live with. After taking that action, however, we became convinced that the forces seeking to protect the environment were mobilized in strong opposition to our position and were unwilling to support passage of the House language. Therefore, very reluctantly, Senator MAGNUSON and I and others in the committee determined that we would seek to work out an agreement with Senator TUNNEY and others which we would hope would be agreeable to all of us. Therefore the committee determined that it will not offer on the floor today an amendment seeking to insert the House language on this matter and has reluctantly agreed to support the language which the Tunney amendment to the bill presently contains. Nonetheless, it is important to note the basic objection to the Tunney bill still remains. That is the splitting up of the authority to regulate noise from aircraft into two different governmental agencies both having vastly different responsibility. Under the Tunney proposal, as it is amended, the kind of program could be very expensive, in fact, it could be prohibitively so. And I think while the Senate will hear much more on the subject from others on the floor today, we have not yet determined the feasibility and the practicability of moving forward at the present time with this new technology. I mention it only to point out that there has been much action in the area of aircraft noise control despite what some of the critics might have you believe. The FAA has recently adopted new regulations relating to the way aircraft are flown, the flight paths that must be followed and the flight regimens which must be maintained by the crews. These new regulations will result in aircraft being kept higher over our urban areas which will greatly reduce the amount of noise reaching the ground. The airlines themselves are beginning on their own initiative to impose certain flying characteristics on their airplanes and crews which result in reductions in power, consistent with safety, and of course protect the public from excessive noise. These things are being done today and they will continue to be done whether this bill is passed or not. But I also recognize that there is great sentiment within the Government and from without, that all environmental programs be coordinated by one agency; namely, the Environmental Protection Agency. While in most cases this may be a wise course to follow, I am not convinced of its wisdom in the area of regulating aircraft noise, therefore, my reservations with the Tunney bill. But in the spirit of cooperation and in the spirit of wanting to see noise

The public wants and needs protection from noise from all sources, not only aircraft, but from other transportation vehicles and from other sources in everyone's daily lives. The bill before the Senate today, however, as it relates to regulation of aircraft is far reaching in its scope and is inconsistent with a decision of Congress in 1958 in which we decided that aviation safety was of such paramount concern, that all Government regulation and control of aviation had to be vested in one single agency. The bill before us today negates that basic principle which I believe is still sound. But more importantantly the process, as it has worked, has completely circumvented the committee which has the primary responsibility to insure safety in air transportation. Obviously the members of our committee were reluctant to take any action on the bill at this late hour which would result in its not being brought up. We were under great pressure to waive our jurisdiction on the matter and to simply acquiese in the action of the Public Works Committee which is before the Senate today. In the spirit of cooperation, although feeling deeply about it, we did acquiese. We waived the jurisdictional rights of our committee.

The Senator from California has been most gracious in meeting with me and discussing my concerns with the legislation and seeking to come up with amendatory language which would ease some of the more serious problems which I and the Committee on Commerce found regulation of aircraft noise will be split between the Environmental Protection Agency and the Federal Aviation Administration. It is my view that any legislation which provides for fractionated authority to regulate in the public welfare is weak. It leads to diffusion, delay, inaction, bickering back and forth and often ineffective regulations. A far preferable situation would be to leave this authority within the Federal Aviation Administration, the supreme authority in the field of air commerce, and charge the administration with increasing its activities to regulate noise from aircraft. As the Senate knows well, the FAA has ample statutory authority at the present time under the bill passed in 1968 to regulate aircraft noise. Some think the FAA has gone too slow. Mr. President, this is a difficult, tedious and very costly matter and while I sometimes think the agency has not moved fast enough I am also very sympathetic to the problems faced by the agency and by the air transportation industry in trying to quiet its products.

There is no doubt that the industry and the FAA have made significant progress, as we all know. The new generation of jet aircraft equipment is quieter than older aircraft by half; promising breakthroughs on other phases are being made at this time. Technology apparently has been developed which might make it possible to reequip older jet aircraft with quieter engines, without compromising safety and reliability, and flying characteristics. But the costs of this legislation enacted during this session of Congress, I will vote for it despite my doubts of its wisdom.

Mr. BUCKLEY. Mr. President, I believe that certain important distinctions must be kept in mind in considering the merits of the Environmental Noise Control Act of 1972 as reported out by the Committee on Public Works.

The general responsibility of the Federal Government in the area of environmental protection is now generally recognized; but having said that, it then becomes necessary to distinguish between the various kinds of pollution which, taken together, adversely affect the human and natural environment, so that we can properly assess the extent of the role which the Federal Government ought to be asked to play in order to bring the various components of environmental pollution under appropriate control.

If one State or community is negligent in its approach to air and water pollution, the environment of other States will be adversely affected because the movement of water and air is unaffected by State lines. In most instances, however, the sources of noise pollution do not have an interstate impact. You can generate quite a bit of noise in Poughkeepsie, N.Y., before the neighbors in New Jersey and Connecticut will have cause for complaint.

The following provisions of the bill, in my view, go beyond what is the appropriate or useful role of the Federal Government in reducing the level of

noise in the environment. The benefits of certain of these provisions in achieving the objectives of the legislation at reasonable costs to the taxpayer; that is, administrative expenses, and to the consumer; that is, increased product costs, are probably of marginal significance. Other provisions represent expensive Federal intrusion even which are fully within the competence in State or local governments to compel, or into the private production and marketing of consumer goods.

To cite some examples:

Section 408, that provision which directs the Administrator to promulgate noise emission standards for categories of new products which he has found to be major sources of environmental noise, gives the Administrator authority to control over a broad variety of products which can be or already are effectively controlled at a lower level of government. Section 408 allows him to promulgate standards for construction equipment, transportation equipment, motors or engines, electrical and electronic equipment, among others. This permits yet another agency of the Federal Government to influence the design features of a wide variety of occupational equipment and consumer products. Mr. President, in my view it is not the proper concern of the Federal Government to attempt to control those forms of environmenal pollution which can be controlled effectively by city ordinance or State regulations. It is clear that in the case of air pollution and water pollution the Federal Government does have a necessary role.

I also object strongly to the so-called "preemption" provision in section 408 which prohibits any State or local government from adopting or enforcing any noise emission standard which is not identical to the standard prescribed by the EPA Administrator. It is true that this section does not preclude or deny the right of any State or city to establish controls on environmental noise through the licensing, regulation or restriction of the use, operation, or movement of any product for which EPA has set emission controls. This limits the ability of State or local authorities to apply one of the most efficient devices for controlling noise.

A number of other prosvisions in this bill strike me as unnecessary and only marginally useful in controlling the level of noise in our environment. Some of these represent unnecessary Federal meddling into the production of consumer goods. They are the imposition of product warranties on a manufacturer, extensive labeling requirements, costly recordkeeping, and recording.

I also question whether it is wise for Congress to launch into yet another grant-in-aid program for noise control as provided in section 418. Would it not be better for the Federal Government to use the limited amount of money which would be available to enhance the technical assistance and the information base which would be of great value to State and local authorities?

Finally, section 419 authorizes $5 million for incentive purchases of low noise emission products. The provision is unnecessary. Many States, including my own State of Maryland, have done an excellent job. A recent experience has indicated, however, that regulation of noise from aircraft is not necessarily consistent with that mission. The FAA has not moved as rapidly as some have expected in implementing the noise reduction which was required in the 1968 Federal Aviation Act. Since that bill passed, there has been created the EPA, whose primary responsibility is to effect all of the Federal Government's environmental policies. It is, therefore, appropriate that the EPA should set the emission standards for the control of noise emissions from aircraft.

The EPA, of course, should consult with those agencies having expertise in the field but the determination of the level of noise which would protect the public health and welfare, including taking into consideration a judgment on the cost of compliance should be made solely by the EPA. Of course, the FAA because of its responsibilities for air safety, should have a veto over any standard promulgated by EPA if the Administrator of the FAA determines that such standard would in any way jeopardize the safety of air travel.

Happily, amendments made on the floor now rest in the EPA, the appropriate authority, subject to the appropriate FAA veto where questions of safety are concerned. To this extent, the bill is constructive. But unfortunately, its fundamental effects far exceed the good; defects are too extensive to be subject to corrections through amendments offered on the floor.

sary and legitimate role. These pollutants are not constrained by artificial political boundaries. Air blows freely from State to State. Almost all streams or their tributaries cross State lines. Noise, on he other hand, is a very peculiar kind of polluant. Noise does not accumulate in the environment; it dissipates almost immediately. It would be the execption rather than the rule if noise crossed Sate or city lines.

I believe the Federal role ought to be restricted to the control of noise levels in automobiles, aircraft, trucks, and other products which in their normal use can be expected to cross political boundaries. It is on this basis that I can support those sections of this bill which authorize the establishment of Federal environmental regulations to control noise emissions from aircraft, railroads, motor carriers, and other transportation vehicles. However, I do not see why the Environmental Protection Agency ought to be in the business of setting emission standards for consumer goods which are used in the home, and equipment used in industry where workers are already protected through the Occupational Health and Safety Act. A number of communities, the city of Chicago is outstanding among them and New York City is about to follow suit, have established effective noise control codes which protect the public from the damaging effects of excessive noise. There is every reason to believe that this trend will spread to other communities and thereby obviate the need for a larger Federal program.

is simply not necessary in order to achieve desired reduction of noise levels and it represents a large proportion of the total authorization for the program. These resources could be used more effectively elsewhere.

AIRCRAFT NOISE

If reports from my constituents who live in New York's great metropolitan areas are any indication, it is the noise emitted from aircraft flyovers which represents the most objectionable form of noise pollution. It has historically been the role of the Federal Government, acting through the Federal Aviation Administration, to control all aspects of air commerce. This helps to establish the validity of a Federal program to control noise emitted from aircraft. These two points convince me that if we are to have a Federal noise control program, it ought to be a program which places effective control on aircraft noise. If our bill is weak in the area of controlling aircraft noise, it is my personal preference to have no bill at all.

The major controversial issue in constructing an effective and responsible Federal program for aircraft noise emission control is which agency shall have the authority to set those admission standards: Environmental Protection Agency or Federal Aviation Administration. It is clear that a major portion of the expertise in the performance of commercial aircraft resides in the FAA. This agency has a mission; that is, to promote the development of an efficient, responsible, and safe system of civil aviation in

Mr. PERCY. Mr. President, we now have an opportunity to respond to the unquestioned need for a comprehensive Federal noise control program in this country. The need for noise control legislation has been recognized by the administration, by all cognizant professional societies concerned about noise pollution, by the major labor unions, by countless citizens' organizations, and by millions of Americans exposed to excessive or unnecessary noise.

I feel very deeply about this issue due to the fact that constant exposure to the noise of aircraft engines and machinegun fire, as a gunnery officer in the Naval Air Corps in World War II, destroyed my ability to hear certain higher frequency sound levels, a disability that has handicapped and bothered me ever since. Thank heavens the widespread use of ear mufflers at airports now and on firing ranges helps to minimize this hazard for those constantly exposed.

In 1972, the President's Council on Environmental Quality—CEQ—included a noise control proposal in the administration's package of environmental protection legislation. In complying with title IV of the Environmental Protection Act of 1970, the newly created Environmental Protection Agency reported to the President and Congress in December 1971, on the organizational deficiencies for noise control among several Federal agencies and the inadequacy of existing laws to remedy the situation.

S. 3342, the Environmental Noise Control Act of 1972, was reported favorably

[p. S18005]

by an overwhelming majority of the Committee on Public Works, from which so much of our environmental protection legislation has originated. I consider S. 3342, as reported, a considerable achievement in reflecting a fine balance between the concerns of affected industry and those of environmental purists. This bill consolidates responsibility for the establishment of national noise control standards and guidelines from a variety of sources within the EPA, the agency created to deal with environmental problems. Most importantly, in my judgment, title V of the measure requires control of noise and its exposure upon people caused by transportation sources arising in interstate commerce—a requirement the States and localities cannot accomplish for themselves.

Approximately 80 million Americans are adversely affected by noise. In addition to hearing damage, other health effects from noise include loss of sleep, anxiety, and interference with classroom learning and with normal conversation. Under this bill the EPA would be given unchallenged authority to regulate noise emissions from such sources as electric blenders, vacuum cleaners, jackhammers, buses, trucks, and trains.

Neither logic nor the demands of a comprehensive program justify excepting aircraft from this authority. For the first time, through EPA-required actions, aircraft noise emission levels would be based on public health and welfare needs—with FAA review on grounds of technological availability and safety. Current FAA regulations require that new planes, such as the Boeing 747 and the McDonnell-Douglas DC-10, meet the noise standards of the Federal Aviation Regulations, part 36. Part 36 is the product of a decade of aircraft noise abatement measures with particular emphasis on the regulation of operating procedures. During the intervening 20 years, the National Aeronautics and Space Administration, individual airlines, the National Aircraft Noise Abatement Council and, more recently, the Boeing Co. have strongly advocated the use of operating procedures for reduced community noise. That such procedures exist, have long been available, and can be effective cannot be denied. Let me quote the two conclusions of the Boeing Co.'s testimony before a public hearing held by the EPA in Washington, D.C., November 10, 1971:

(1) Significant reductions in community noise can be attained through early adoption of readily available regulatory and procedural operations changes in the vicinity of airports. Such changes can be made at little cost, would require no particular increase in pilot skill or pilot workload, and are not considered to have any effect on safety.

(2) Further noise reduction benefits are available through certain additional operating procedures requiring development of techniques and equipment modifications to avoid increasing pilot workload.

What has been the FAA's response to Boeing and to the NASA and American Airlines successful demonstration over a year ago of an effective and safe two-segment approach procedure? I refer my colleague to a letter from FAA Administrator John Shaffer, dated July 17, 1972, responding to my inquiries regarding the abominable noise conditions around Chicago's O'Hara Airport. Mr. Shaffer says:

The Federal Aviation Administration has taken several recent steps at the national straighten themselves out." My constituents near airports will not consider that kind of response satisfactory, particularly when FAA has had, over the years, comprehensive rulemaking authority to reduce aircraft noise pollution which it steadfastly refuses to exercise.

In his communications to the Congress and public pronouncements, Administrator Shaffer calls attention to the "exemplary cooperation" for noise abatement purposes between the FAA and the airlines. He refers to the "voluntary" adoption of a noise abatement takeoff procedure in August of this year by all the airlines. I am reliably informed that all airlines do not follow the "voluntary" procedure and that it does not in fact provide meaningful relief for close-in airport community residents, such as those around O'Hara Airport, whose problem is most severe.

The FAA has abdicated the regulatory responsibilities Congress has entrusted to it. Provisions of the Federal Aviation Act of 1908 and the Aircraft Noise Certification Act of 1968, Public Law 90–411, require the Administrator to adopt measures for "the present and future relief from aircraft noise—for the benefit of persons on the ground."

The FAA claims that the reduced noise generating qualities of second generation high bypass ratio engines and new aircraft types is attributable to FAA and airline efforts. But should not credit go to airframe and engine manufacturers for their foresight and ingenuity in introducing new quieter aircraft with reduced exhaust emissions?

While claiming on the one hand that it

nell Douglass DC–10 meet stringent noise abatement standards. They do not, however, set such standards for other existing jet aircraft.

I think that the policy is totally inadequate, and I believe it is imperative that existing jets be retrofitted or otherwise be made to conform to strict noise abatement standards, so that our citizens living in the vicinity of great airports such as O'Hare can live more normal lives, free from earsplitting intrusions throughout each day.

What then is the difficulty in passing S. 3342? It appears to be primarily the airline industry that opposes this needed legislation, although I note that the airport operators, through the Airport Operators Council International, have strongly indicated their support of S. 3342 with strengthening amendments.

What is the root of this opposition? The airlines claim that shifting lead agency responsibility for aircraft noise control from FAA to EPA might imperil flight safety procedures.

In this context, it is important to look to the history of FAA, and before it the Civil Aeronautics Administration—CAA—regulation of aircraft noise. In summary, such regulation has been virtually nonexistent. Perhaps the best illustration of FAA inertia in the area of aircraft noise control is the agency's failure to implement an operating rule for noise abatement.

The "Report of the President's Airport Commission—The Airport and Its Neighbors," submitted to President Truman in May 1952, urged adoption of a variety level to reduce aircraft noise. Federal Air Regulation Part 36 requires that all newly certified turbo-jet aircraft meet stringent noise requirements. As a result, new aircraft such as the McDonnell-Douglas RC–10 and the Lockheed–1011 are significantly quieter than their predecessors. As more of these aircraft are produced they will be replacing older, noisier turbo-jet aircraft. FAA is now evaluating a program to reduce engine noise on the remaining jet fleet. We will proceed with this program when it is determined to be technically effective and economically feasible. The FAA is also sponsoring a number of other research projects on ways and means of reducing engine noise. We work closely with the Department of Defense and the National Aeronautics and Space Administration to assure a proper emphasis in their particular areas of interest and to prevent any duplication of effort in noise reduction research.

At O'Hara, as well as all other major terminal areas, we are constantly working to develop procedural innovations in handling aircraft so as to reduce noise. For example, the controllers keep jet aircraft as high as possible prior to landing and get them as high as practical as soon as possible after departing. When weather conditions permit, runways are changed periodically in order that aircraft do not proceed over a given area for long periods of time. When wind conditions preclude shifting of runways, controllers will vary the headings of departing aircraft after leaving the runway to ensure that there will not be a concentration of aircraft passing over a small area for extended periods. Also the preferential runway system used during the night is designed to avoid the most noise-sensitive areas, generally located east of the airport.

To me, this response says that "we're aware of the problem, trying to do something about it and hope that things will alone has authority for the regulation of aircraft operation for aircraft noise abatement, the FAA simultaneously maintains aircraft noise control is a local problem. Yet when States and localities attempt measures to protect citizens from excessive aircraft noise levels, FAA asserts Federal preemption rights.

This is a situation which the Congress cannot allow to continue. S. 3342 goes a long way toward correcting the errors of the past and providing for a responsible and comprehensive plan of noise pollution control whatever the source. I strongly urge adoption of this vital legislation.

I would like to take this opportunity to express my gratitude to George J. Franks, chairman/president of the O'Hare Area Noise Abatement Council, to Theodore Berland, president of Citizens Against Noise, to John D. Varble, village president of Bensenville, Ill., and director/secretary of NOISE, and to Herbert H. Behrel, mayor of the city of Des Plaines—each of whom has taken a leadership role in the worthy struggle for aircraft noise abatement and, together with many others, has endeavored to keep me informed of the personal traumas suffered by over more than 4½ million Illinois citizens in some 21 communities subject to noise depredations around O'Hare Airport.

Mr. TUNNEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TUNNEY. Mr. President, I yield back my time.

[p. S18006]

Mr. BOGGS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the bill has now been yielded back.

The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the

NAYS—5

Allen	Bellmon	Jordan, N.C.
Anderson	Buckley	

NOT VOTING—20

Allott	Hatfield	Mundt
Baker	Hruska	Muskie
Bible	Kennedy	Randolph
Cook	McGee	Scott
Curtis	McGovern	Stafford
Edwards	McIntyre	Tower
Harris	Metcalf	

So the bill (S. 3342) was passed.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the Committee on Commerce and the Committee on Public Works be discharged from further consideration of H.R. 11021.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 11021.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California?

There being no objection, the Senate proceeded to consider the bill.

Mr. TUNNEY. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the language of S. 3342, just passed by the Senate, be inserted in lieu thereof, and that the Senate bill be indefinitely postponed.

"Sec. 404. Definitions.
"Sec. 405. Research, investigation, training, and other activities.
"Sec. 406. Federal programs.
"Sec. 407. Noise criteria and control technology.
"Sec. 408. Noise emission standards for new products.
"Sec. 409. Labeling.
"Sec. 410. Imports.
"Sec. 411. Prohibited acts.
"Sec. 412. Enforcement.
"Sec. 413. Citizen suits.
"Sec. 414. Emergency situations.
"Sec. 415. Judicial review.
"Sec. 416. Records, reports, and information.
"Sec. 417. Federal procurement.
"Sec. 418. Grants for support of environmental noise planning and control programs.
"Sec. 419. Development of low-noise-emission products.
"Sec. 420. Authorization of appropriations.

"FINDINGS AND POLICY

"SEC. 402. (a) The Congress finds—

"(1) that environmental noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

"(2) that the major sources of noise emissions include aircraft, vehicles, machinery, appliances, and other products in commerce; and

"(3) that, while primary responsibility for control of environmental noise rests with State and local governments, Federal regulatory action is essential to deal with major noise emission sources, and Federal assistance is necessary to encourage and support programs for the control of environmental noise.

"(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their public health or wel-

Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 75, nays 5, as follows:

[No. 554 Leg.]

YEAS—75

Aiken	Fulbright	Packwood
Bayh	Gambrell	Pastore
Beall	Goldwater	Pearson
Bennett	Gravel	Pell
Bentsen	Griffin	Percy
Boggs	Gurney	Proxmire
Brock	Hansen	Ribicoff
Brooke	Hart	Roth
Burdick	Hartke	Saxbe
Byrd, Harry F., Jr.	Hollings	Schweiker
Byrd, Robert C.	Hughes	Smith
Cannon	Humphrey	Sparkman
Case	Inouye	Spong
Chiles	Jackson	Stennis
Church	Javits	Stevens
Cooper	Jordan, Idaho	Stevenson
Cotton	Long	Symington
Cranston	Magnuson	Taft
Dole	Mansfield	Talmadge
Dominick	Mathias	Thurmond
Eagleton	McClellan	Tunney
Eastland	Miller	Weicker
Ervin	Mondale	Williams
Fannin	Montoya	Young
Fong	Moss	
	Nelson	

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11021) was read the third time and was passed.

Mr. TUNNEY. Mr. President, I ask unanimous consent that H.R. 11021 be printed, and printed in the RECORD as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 11021) as passed is as follows:

H.R. 11021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. This Act may be cited as the "Environmental Noise Control Act of 1972".

SEC. 2. Title IV of the Clean Air Act Amendments of 1970 is amended to read as follows:

"SHORT TITLE; TABLE OF CONTENTS

"SEC. 401. This Act, including the following table of contents, may be cited as the 'Environmental Noise Control Act'.

"TABLE OF CONTENTS

"Sec. 401. Short tile; table of contents.
"Sec. 402. Findings and policy.
"Sec. 403. Office of Noice Abatement and Control.

fare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in environmental noise control, to authorize the establishment of Federal noise emission standards for new products, to provide information to the public of the noise emission and noise reduction characteristics of new products, to encourage and support State and municipal programs for the control of environmental noise through planning and program grants to State and local environmental noise control agencies, and to provide information to the public on the control of environmental noise through regulation of use of products and other methods and procedures to reduce environmental noise.

"(c) Public participation in the development, revision, and enforcement of any regulation, noise emission standard, program or plan established by the Administrator or any State or municipality under this Act shall be provided for, encouraged, and assisted by the Administrator and the States and municipalities. The Administrator, in cooperation with the States and municipalities, within ninety days after enactment of this section, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"OFFICE OF NOISE ABATEMENT AND CONTROL

"SEC. 403. (a) The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare and administer the provisions of this Act.

"(b) The Administrator is authorized to prescribe such regulations as are necessary to carry out his function under this Act. The Administrator may delegate to any officer or employee of the Environmental Protection

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Agency such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient.

"(c) Upon the request of an environmental noise control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"(d) Payments under grants made under this Act may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administrator.

"DEFINITIONS

"SEC. 404. For purposes of this title and title V of this Act:

"(a) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(b) The term 'person' means an individual, corporation, partnership, or association, and (except as provided in section 413(a)(1) of this Act) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

"(c) The term 'product' means any manufactured article or goods or component thereof; except that such term does not include—

"(1) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act, as amended (49 U.S.C. 1431); or

"(2)(A) any military aircraft, rockets, weapons, or equipment which are designed for combat use; or (B) any aircraft, rockets, launch vehicles, spacecraft, or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration, as determined by the President under section 406 of this Act.

"(d) The term 'ultimate purchaser' means the first person who in good faith purchases a product for purposes other than resale.

"(e) The term 'new product' means a product the equitable or legal title to which has

"(1) A single State agency designated by the Governor of that State as the official State environmental noise control agency for purposes of this Act;

"(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of environmental noise;

"(3) A city, county, or other local government authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of environmental noise; or,

"(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of environmental noise.

"(l) The term 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(m) The term 'noise emission standard' means a statement of a noise level or other acoustical characteristic which may not be exceeded under specified conditions or method of operation. Such standard shall include the test procedures to be followed and shall be stated in terms of performance rather than design criteria.

"(n) The term 'environmental noise' means the intensity, duration, and character of sounds from all sources.

"(o) The term 'cumulative noise exposure' means the exposure of individuals in defined areas around airports to noise from aircraft operations weighted by time of day."

"RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES

"SEC. 405. (a) The Administrator shall establish a national research and development program for the prevention and control of environmental noise and as part of such program shall—

"(1) conduct, and promote the coordination and acceleration of, research, investi-

"(b) In carrying out the provisions of the preceding subsection the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of activities pursuant to subsection (a) and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

"(2) cooperate with other Federal agencies, with environmental noise control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities, including technical assistance;

"(3) make grants to environmental noise control agencies, to other public or nonprofit private agencies, institutions and organizations, and to individuals, for purposes stated in subsection (a) of this section;

"(4) contract with public or private agencies, institutions and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

"(5) provide training (without fee) for, and make training grants to personnel of environmental noise control agencies and other persons with suitable qualifications;

"(6) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

"(7) collect and make available through publications and other appropriate means, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on physical, and human and other effects of varying levels of noise and other information pertaining to noise and the prevention and control thereof; and

never been transferred to an ultimate purchaser. Products remanufactured or rebuilt by a manufacturer from used products to restore original functions shall be considered to be new products for the purposes of this title and title V of this Act.

"(f) The term 'manufacturer' means any person engaged in the manufacturing, assembling, or importing of new products, or who acts for, and is controlled by, any such person in connection with the distribution of such products, but shall not include any dealer with respect to any new product received by him in commerce.

"(g) The term 'dealer' means any person engaged in the sale or the distribution of new products to the ultimate purchaser who may prepare a product for sale or distribution to the ultimate purchaser: *Provided*, That when such dealer's preparatory or final assembly work involves modifications which increase the noise emission characteristics of such product, such dealer shall then be considered a manufacturer of such product for the purposes of this title and title V of this Act.

"(h) The term 'commerce' means trade, traffic, commerce, or transportation—

"(1) between a place in a State and any place outside thereof, or

"(2) which affects trade, traffic, commerce, or transportation described in paragraph (1) of this subsection.

"(i) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"(j) The term 'Federal agency' means any department, agency, or instrumentality of the United States including United States Postal Service.

"(k) The term 'environmental noise control agency' means any of the following:

gations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of environmental noise;

"(2) conduct and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

"(A) investigation of the direct or indirect effects of noise on humans (including physiological and psychological effects), and the direct or indirect effects of noise on domestic animals, fish, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects; and

"(B) development of improved methods and standards for measurement and monitoring of noise in cooperation with the National Bureau of Standards, Department of Commerce.

"(3) encourage, cooperate with, and render technical services (including the drafting of model ordinances) and provide financial assistance to environmental noise control agencies and other appropriate public or private agencies, institutions and organizations, and individuals in the conduct of such activities;

"(4) conduct investigations and research and make surveys concerning any specific problem of environmental noise in cooperation with any noise pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the noise is located; and

"(5) establish technical advisory committees composed of recognized experts in various aspects of noise to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research, and for other purposes.

"(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of environmental noise.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known noise sources.

"(d) In carrying out research pursuant to this Act, the Administrator shall give special emphasis to research on the short- and long-term effects of environmental noise on public health and welfare.

"FEDERAL PROGRAMS

"SEC. 406. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 402 of this Act.

"(b) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the emission of noise shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products specified pursuant to section 404(c)(2) of this Act may be granted from the requirements of sections 408, 511, and

521 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year from the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c)(1) The Administrator shall coordinate the programs of all Federal agencies relating to environmental noise research and environmental noise control. Each Federal agency shall furnish to the Administrator such information as he may reasonably require, to determine, as provided under section 309 of the Clean Air Act, if the nature, scope, and results of the noise research and environmental noise control programs of the agency are consistent with the purposes of this Act.

"(2) Each Federal agency shall consult with the Administrator in prescribing any regulations respecting environmental noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation of any Federal agency, respecting noise, does not protect the public health and welfare to the extent he believes to be required he shall request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request shall be published in the Federal Register and shall be accompanied by a detailed statement of the information on which such request is based. Such agency shall complete the requested review and report to the Administrator within

and (2) giving information on the porcesses, procedures, or operating methods which result in the control of the emission of noise, to implement noise emission control standards under section 408, 501, 503, 511, and 521 of this Act, which such information shall include technical and other data, including costs, as are available on alternative methods of noise control.

"(c) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall compile and provide information on methods and techniques of controlling environmental noise through, among other means, product use control, land use regulation, and construction and building standards. Such information shall be compiled and published to assist State and local governments in establishing and enforcing environmental noise control programs supported under section 418 of this Act.

"(d) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

"(e) Any report under subsection (b)(1) of this section identifying major noise sources shall be published in the Federal Register. The publication or revision of any criteria or information on control techniques under this section shall be announced in the Federal Register, and copies shall be made available to the general public.

"NOISE EMISSION STANDARDS FOR NEW PRODUCTS

"SEC. 408. (a)(1) The Administrator shall publish proposed regulations establishing noise emission standards for new products or classes of products—

"(A) identified in any report published under section 407(b)(1) of this Act as a major source of noise, and

"(B) which falls in one of the following categories:

"(i) Construction equipment.

promulgate regulations establishing noise emission standards for such new product.

"(c)(1) Any noise emission standard prescribed under subsection (a) or (b) of this section respecting a new product shall set limits on noise emissions from such new product over the useful life of the product (as determined by the Administrator taking into account the range of possible uses for the same type of product) and shall be a standard which in the Administrator's judgment, based on information published under section 407 of this Act, reflects the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. In establishing such standards for any new product the Administrator shall assure that such standards are compatible with standards under other laws respecting emission of air or water pollutants and safety, including (but not limited to) any standard under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Clean Air Act (42 U.S.C. 1857 et seq.), or the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.). Any standard prescribed under subsection (a) or (b) of this section may contain provisions respecting instructions of the manufacturer for the maintenance or use of the product.

"(2) After publication of any proposed regulations under this section, the Administrator shall allow the public an opportunity to participate in rulemaking in accordance with section 553 of title 5, United States Code.

"(3) The Administrator may revise any noise emission standard prescribed by him in accordance with this section.

"(4) Any regulation prescribed under this section (and any revision thereof) shall take effect after a period not to exceed two years or such lesser time as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of com-

in 180 days after the date of the publication in the Federal Register of the request. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standards or regulation.

"(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish annually a report to the Congress on the status and progress of Federal activities relating to environmental noise research and environmental noise control. This report shall describe the environmental noise control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control environmental noise.

"NOISE CRITERIA AND CONTROL TECHNOLOGY

"SEC. 407. (a) The Administrator shall, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, within nine months after the date of enactment of this section, issue noise criteria. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise, and such criteria shall set forth levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

"(b) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall within fifteen months after date of enactment of this section compile and publish a report or series of reports (1) identifying products (or classes of products) which on the basis of information available to him appear to be major sources of noise,

"(ii) Transportation equipment (including snowmobiles, motorcycles, and recreational vehicles and related equipment).

"(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

"(iv) Turbines and compressors.

"(v) Electrical and electronic equipment, except those products which are designed for the production or reproduction of music or sound (to the extent such reproduction is identical, except in amplitude, to the source reproduced).

"(vi) Percussion and explosive equipment.

"(2)(A) Regulations proposed under paragraph (1) shall be promulgated not later than eighteen months after the date of enactment of this Act, and shall apply to any appropriate new product described in paragraph (1) which is identified (or in a class identified) in any report published under section 407(b)(1) of this Act on or before the date of publication of such initial proposed regulations.

"(B) In the case of any new product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 407(b)(1) of this Act after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) of this subsection for such new product shall be promulgated by the Administrator not later than nine months after such report is published.

"(b) The Administrator may publish proposed regulations establishing noise emission standards respecting any new product for which he is not required to establish standards under subsection (a) of this section but for which, in his judgment, noise emission standards are requisite to protect the public health and welfare. Not later than six months after the date of publication of such regulations respecting such new product, he shall

pliance within such period. Standards prescribed under this section shall apply to products manufactured on or after the effective date of such standards.

"(5) The Administrator may prescribe regulations defining 'effective date' for the purpose of assuring that products manufactured before the effective date of a regulation under this section were not manufactured for purposes of circumventing the effective date of such regulations.

"(d)(1) On and after the effective date of any standards prescribed under this section, the manufacturer of each new product shall warrant to the ultimate purchaser and each subsequent purchaser that such product is (A) designed, built, and equipped so as to conform at the time of sale with applicable regulations under this section, and (B) free from defects in materials and workmanship which cause such product, under normal use, operation, and maintenance to fail to conform with applicable regulations for its useful life, as determined by the Administrator, taking into account the range of uses for such product.

"(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

"(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a reci-

plent of assistance for purposes of section 311 of the Clean Air Act, as amended.

"(e)(1) No State or political subdivision thereof may adopt or enforce, with respect to (A) any product manufactured after the effective date of a regulation prescribed by the Administrator under this section or (B) any component incorporated into such product by the manufacturer of such product, any standard setting a limit on noise emissions from such product enforceable against the manufacturer which is not identical to the standard prescribed by the Administrator.

"(2) Subject to paragraph (1) of this subsection, nothing in this section shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products: *Provided,* That such control, licensing, regulation, or restriction shall not, in the case of any motor carrier engaged in interstate commerce or any equipment or facility of a surface carrier engaged in interstae commerce by railroad, result in a limit on noise emissions for any carriers, equipment, or facility different than any limit contained in any regulation applicable thereto prescribed by the Administrator under this section or title V of this Act, except that in the case of such carriers the Administrator may by regulation, upon the petition of a State or political subdivision thereof and after consultation with the Secretary of Transportation, permit such more restrictive limits on such noise emissions through the application of use, operation, or movement controls or regulations as in his judgment are necessitated by special local conditions.

"(3) If, after promulgation of any standards and regulations under this section and prior to their effective date, a product is manufactured in compliance with such

the Treasury shall refuse delivery to the consignee and shall cause disposal or storage of any product refused delivery which has not been exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such product, together with the duty thereon, and on refusal to return such product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding it from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on products which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"PROHIBITED ACTS

"SEC. 411. (a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

"(1) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product, aircraft, or aircraft engine manufactured after the effective date of noise emission control standards prescribed under sections 408, 501, 503, 511, and 521 of this Act which are applicable to such product, unless such product is in conformity with such standards.

"(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, testing, repair, or replacement, of any device or element of design incorporated into any product, aircraft, or aircraft

"(6) The failure of any person to comply with any order issued under section 412(d) or 414 of this Act.

"(b)(1) The Administrator may after publice hearings exempt for a specified period of time not to exceed one year, any new product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a) of this section upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

"(2) A new product intended solely for export, and so labeled or tagged on the outside of the container and on the product itself, shall be subject to noise emission standards of the country which imports such product. In no event shall the Administrator allow the export from the United States of any product subject to section 414 of this Act as a product, the noise emissions from which are an imminent and substantial endangerment to public health.

"ENFORCEMENT

"SEC. 412. (a) Any person who willfully or negligently violates paragraph (1), (3), (5) or (6) of subsection (a) of section 411 of this Act shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. In the case of a violation of paragraph (1) or (6) of subsection (a) of section 411 of this Act the fine shall be not less than $2,500 per day of violation. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(b) For the purpose of this section, each day of violation of section 411(a) of this Act shall constitute a separate violation of that section.

"(c) The district courts of the United

standards and regulations such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such product on the date of such compliance.

"LABELING

"SEC. 409. (a) The Administrator shall by regulation for any new product (or class thereof)—

"(1) identified pursuant to section 407 (b)(1); or

"(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise, require either (1) that a notice of the level of noise emission including the relationship to any applicable noise emission standard under section 408, or notice of the effectiveness in reducing noise (as the case may be) supplied by the manufacturer, be affixed to the new product and to the outside of its container at the time of its sale to the ultimate purchaser, or (2) that such notice of such level or effectiveness supplied by the manufacturer otherwise be given to the prospective user. He shall prescribe the form of the notice and the methods and units of measurement to be used for this purpose. Section 408(c)(2) shall apply to the promulgation of any regulation under this section.

"(b) This section does not prevent any State or political subdivision thereof from regulating product labeling in any way not in conflict with regulations promulgated by the Administrator under this section.

"IMPORTS

"SEC. 410. Any product offered for entry into the United States for which a standard or regulation has become effective pursuant to this title, which is not accompanied by certificate of compliance in the form prescribed by the Administrator, shall be refused entry into the United States. If a product is refused entry, the Secretary of engine in compliance with noise emission standards promulgated under sections 408, 501, 503, 511, and 521 of this Act prior to its sale or delivery to the ultimate purchaser or during its term of use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative.

"(3) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(b) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(3)(A) In the case of a manufacturer or dealer, the assistance of any person in a violation of paragraph (2)(A) of this subsection or the furnishing of information with respect to a violation of paragraph (2)(A) of this subsection.

"(B) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(a) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(4)(A) The removal by any person of any notice affixed to a product or container pursuant to regulations promulgated under section 409(a) of this Act prior to the sale of the new product to the ultimate purchaser, or (B) the sale of such product or container from which such notice has been removed.

"(5) The importation into the United States by any person of any new product in violation of regulations promulgated under section 410 of this Act that are applicable to such product.

States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 411(a) of this Act.

"(d)(1) Whenever any person is in violation of section 411(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare. Such relief may include an order requiring such person to cease such violation, to notify ultimate purchasers of the risks associated with such violation, to make public notice of such risks, to recall any products responsible for such violation, to repurchase any such products, or to replace any such products. Such order may also require the seizure of any such products by the Administrator.

"(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5 of the United States Code.

"(e) When authorized by State law—

"(1) The Administrator may, by agreement with any environmental noise control agency with or without reimbursement, authorize law enforcement officers or other officers or employees of such environmental noise control agency to bring civil actions in the appropriate State courts to restrain any person from violating section 411(a).

"(2) The courts of such State may entertain any such civil action.

Nothing in this section shall affect the authority of an environmental noise control agency to commence a civil action under section 413 of this Act.

"CITIZEN SUITS

"SEC. 413. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment

to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (f) of this section), or

"(2) against—

"(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator.

"(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under this Act or section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator of the Environmental Pro a noise emission control requirement with respect to aircraft under this Act or section 611 of the Federal Aviation Act as amended) and (ii) to any alleged violator of such requirement, or

"(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the defendant that he

standing the existence or nonexistence of a noise emission standard applicable to a product, or the pendency of administrative proceedings initiated pursuant to this Act.

"(b) The district court in which such action is filed shall have jurisdiction to declare such product a product the noise emissions from which are an imminent and substantial endangerment to public health, and to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent equitable relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of the original purchasers of such product of such risk, public notice, the recall, the repurchase, the repair, the replacement, or the seizure of such product.

"JUDICIAL REVIEW

"SEC. 415. Any judicial review of final regulations promulgated under this Act shall be in accordance with sections 701–706 of title 5 of the United States Code, except that:

"(a) a petition for review of action of the Administrator in promulgating any standard or regulation under section 408, 501, 511, or 521 of this Act or any labeling regulation under section 409 of this Act may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil proceedings for enforcement except as to whether the administrative and judicial procedures of this Act have been observed;

"(b) if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the Administrator, the court may order such evidence, and evidence in rebuttal thereof, to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence. All evidence shall be available to the manufacturer available for testing by the Administrator, to the extent required by regulations of the Administrator.

"(b) For the purpose of obtaining information to carry out titles IV and V of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(c) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information or particular part thereof (other than noise emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant

will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

"(c) In an action under this section, the Administrator of the Environmental Protection Agency or, if appropriate, the Administrator of the Federal Aviation Administration, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(e) Nothing in this section shall resrtict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

"(f) For purposes of this section, the term 'noise control requirement' means any prohibition, standard, or requirement under section 408, 411, 501, 503, 508, 511, or 521 of this Act or a prohibition, standard, rule, or regulation issued under section 611 of the Federal Aviation Act of 1958, as amended.

"EMERGENCY SITUATIONS

"SEC. 414. (a) The Administrator or the Attorney General shall file, in a district court of the United States having venue thereof, an action against any product the noise emissions from which are an imminent and substantial endangerment to public health, or against any person who manufactures for sale, sells, or offers for sale, in commerce, or imports into the United States, such product. Such an action may be filed, notwithfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence;

"(c) with respect to relief pending review of an action by the Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

"RECORDS, REPORTS, AND INFORMATION

"SEC. 416. (a) Such manufacturer of a new product, aircraft, or aircraft engine to which standards or regulations under sections 408, 501, 503, 511, or 521 of this Act or regulations under section 409 apply shall (1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act, (2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and (3) make new products coming off the assembly line or otherwise in the hands of in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control, from the duly authorized committees of the Congress.

"(d) Any communication from a person to the Administrator or any other employee of the Agency concerning a matter presently under consideration in a rulemaking or adjudicatory proceeding in the Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (c) of this section.

"(e) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"FEDERAL PROCUREMENT

"SEC. 417. (a) No Federal agency may enter into any contract for the procurement of goods, materials, or services with any person, who has been convicted of a criminal offense under section 412(a) of this Act and who, upon consideration of the gravity of the violation and the good faith of the person charged in attempting to achieve rapid compliance, the Administrator determines should be subject to the prohibition of his section. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to a conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies

with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act, the President shall, not more than one hundred and eighty days after its enactment, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purposes and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States, and he shall notify the Congress of such exemption.

"GRANTS FOR SUPPORT OF ENVIRONMENTAL NOISE PLANNING AND CONTROL PROGRAMS

"SEC. 418. (a)(1). The Administrator may make grants to environmental noise control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining programs for the prevention and control of environmental noise.

"(2) Before approving any grant under this subsection to any environmental noise control agency within the meaning of sections 404(k)(3) and 404(k)(4) of this Act, the Administrator (when appropriate) shall receive assurances that such agency provides for adequate representation of State, interstate, local, and international interests in its area of jurisdiction. Before approving any grant under this subsection the Administrator shall determine that the recipient is the appropriate environmental time to time make grants to environmental noise control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purposes of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential environmental noise problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of environmental noise unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

"(c) Not more than 10 per centum of the total funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for environmental noise control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

"(d) The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 403(c) of this Act, when such detail has been filed in accordance with paragraph (5)(A) of this subsection;

"(B) which is a low-noise-emission product as determined by the Administrator; and

"(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

"(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(4) Certification under this section shall be effective for a period of one year from the date of issuance.

"(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

"(B) The Administrator shall publish in the Federal Register a notice of each application received.

"(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

noise control agency for the jurisdictions involved in order to minimize overlap and duplication of effort.

"(3) Before approving any planning grant under this subsection to any environmental noise control agency within the meaning of sections 404(k)(3) and 404(k)(4) of this Act, the Administrator shall receive assurances that such agency has the capability of developing and enforcing a comprehensive environmental noise control plan.

"(4) Before approving any grant for purposes other than developing a program under this section to any environmental noise control agency within the meaning of section 404 of this Act, the Administrator shall determine that such agency has the authority—

"(A) to regulate the location, modification, and construction of any facilities within the area of jurisdiction of such agency which may result in the generation of environmental noise; and

"(B) to assure that the use of any product in the area of jurisdiction of such agency will not exceed applicable noise control levels;

"(C) to (i) identify, if appropriate, sources of environmental noise within the jurisdiction of such agencies, and (ii) set forth procedures, processes, and methods (including land use requirements and design and construction standards) to control such sources to the extent feasible;

"(D) to acquire, maintain, and operate noise monitoring facilities in the field and otherwise, making public reports of noise emissions and levels of environmental noise disclosed by such monitoring, which reports shall be related to any applicable standards or limitations; and

"(E) to issue abatement orders.

"(b) From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from is for the convenience of, and at the request of, such recipient and for the purposes of carrying out the provisions of this Act. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency.

"(e) There is authorized to be appropriated for this section $5,000,000 for fiscal year ending June 30, 1973, $7,500,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

"SEC. 419. (a) For the purpose of this section:

"(1) The term 'Committee' means the Low-Noise-Emission Product Advisory Committee.

"(2) The term 'Federal Government' includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

"(3) The term 'low-noise-emission product' means any product which emits noise in amounts significantly below the levels of other products in the competitive market for such product at the time of procurement.

"(4) The term 'retail price' means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

"(b)(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

"(2) The Administrator shall certify any product—

"(A) for which a certification application

"(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

"(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

"(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

"(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

"(c)(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

"(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

"(d) The procuring agency shall be required to purchase available certified low-

noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

"(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

"(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at the time of purchase he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

"(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

"(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 420. There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the provisions of this title, $30,000,000 for the fiscal year ending June 30, 1973, and $40,000,000 for the fiscal year ending June 30, 1974."

Federal Aviation Act of 1958, as amended

AN ACT To provide for the regulation and promotion of civil aviation in such manner as to assure the highest degree of safety in air commerce and the national defense; to provide for the development of civil aeronautics; to provide for the safe and efficient use of the airspace by both civil and military aircraft; to provide for the establishment of a National Aeronautics and Space Administration for the encouragement and development of aeronautical and space activities; and for other purposes.

Public Law 85-726, August 23, 1958, 72 Stat. 731, 49 U.S.C. 1301 et seq.

Sec. 611 of the Federal Aviation Act of 1958, as amended by Public Law 92-574, October 27, 1972, 86 Stat. 1235, 49 U.S.C. 1431

"SEC. 611. (a) (1) The Administrator of the Federal Aviation Administration, on his own initiative or upon application therefor, shall issue, amend, modify, suspend, or revoke such reasonable standards, rules, and regulations governing the manufacture, operation, and maintenance of aircraft engines and appliances as he may find necessary to provide adequate protection to the public health and welfare from aircraft noise and sonic boom. Such standards, rules, and regulations shall be applicable to aircraft engines and appliances which are to be used on aircraft registered in the United States and to aircraft engines and appliances which are to be used on aircraft registered in any foreign country and which are to be used in the United States by persons operating aircraft under the certificate issued pursuant to section 1371 of this Act

propriated to carry out this Act (other than sections 418 and 419) $18,000,000 for the fiscal year ending June 30, 1973; $36,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975."

SEC. 3. The Clean Air Act is amended to add a new title V as follows:

"TITLE V—MAJOR MOVING SOURCES

"PART A—CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 501. (a) In order to afford present and future relief and provide protection to public health and welfare from aircraft noise and sonic boom—

"(1) the Administrator of the Environmental Protection Agency, after consultation with the Administrator of the Federal Aviation Administration, shall promulgate and amend standards for the measurement of aircraft and aircraft engine noise and sonic boom; and

"(2) the Administrator of the Environmental Protection Agency shall promulgate and amend regulations with respect to noise emission standard for aircraft and aircraft engines which he determines are necessary and adequate to protect the public health and welfare with an adequate margin of safety.

"(b) (1) Any regulations under this section or amendments thereof, with respect to noise emissions from types of aircraft or aircraft engines, shall reflect the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the reasonableness of the cost of compliance and the demonstrable public benefit that will result, as determined by the Administrator of the Environmental Protection Agency after consultation with the Administrator of the Federal Aviation Administration and shall not be promulgated until the Administrator of the on Interstate and Foreign Commerce of the House of Representatives and the Committees on Commerce and Public Works of the Senate within one year after enactment of this title.

"(b) The Secretary of Transportation, after consultation with the appropriate Federal, State, and local agencies and interested individuals, shall conduct a study of the means of financing the retrofitting of existing jet aircraft (excluding aircraft owned or operated by any military agency) in order to carry out the purposes of this part, and shall make recommendations, taking into consideration what is economically reasonable, technologically practicable, and appropriate for the types of aircraft and aircraft engines to which the recommendations will apply. He shall report on such study to the Committees on Interstate and Foreign Commerce, and Ways and Means of the House of Representatives, and the Committees on Commerce, Finance, and Public Works of the Senate by July 1, 1973, together with his recommendations for whatever legislation may be required.

"SEC. 503. (a) The Secretary of Transportation, after consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 501 of this Act. The regulations of the Secretary of Transportation shall include provisions making such standards respecting noise emissions from any type of aircraft applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act, as amended, or the Department of Transportation Act, as amended. Such Secretary shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in him by any other provision of law in the execution of all aircraft over the territory of the United States, the territorial sea of the United States, or the waters of the contiguous zone (as defined under Article 24 of the Conservation of the Territorial Sea and the Contiguous Zone) at a true flight mach number greater than 1 except in compliance with the conditions and limitations in an authorization to exceed mach 1 issued to the operator under this section.

"(b) For a research and development flight in a designated flight test area an authorization to exceed mach 1 may be issued if the applicant shows one or more of the following:

"(1) The flight is necessary to show compliance with an airworthiness regulation or is necessary for aircraft development.

"(2) The flight is necessary to determine the sonic boom characteristics of the airplane, or is necessary to establish means of reducing or eliminating the effects of sonic boom.

"(3) The flight is necessary to demonstrate the conditions and limitations under which speeds greater than a true flight mach number of 1 will not cause a sonic boom to reach the land or water surface of the earth.

"(c) An application for an authorization to exceed mach 1 must be made on a form and in a manner prescribed by the Federal Aviation Administrator in consultation with the Administrator of the Environmental Protection Agency. In addition, for an authorization covered by subsection (b) of this section, each application must contain—

"(1) information showing that operation at speeds greater than mach 1 is necessary to accomplish one of the purposes specified in subsection (b) of this section;

"(2) a description of the flight test area proposed by the applicant; and

"(3) conditions and limitations that insure that no sonic boom will reach the land

or water surface outside of the designated flight test area.

"(d) An application for an authorization to exceed mach 1 shall be denied whenever the Administrator of the Environmental Protection Agency finds that such research and development flight or flights will adversely affect public health or welfare or the quality of the environment.

"(e) An authorization to exceed mach 1 is effective until it expires, or until it is surrendered, and shall be terminated by the Administrator whenever he finds that such action is necessary to protect public health or welfare or the quality of the environment.

"(f) Any violation of this section shall be subject to the penalties prescribed under subsection (a) of section 412 of this Act.

"SUPERSONIC AIRCRAFT

"SEC. 508. No civil aircraft capable of flying at supersonic speed shall land at any place under the jurisdiction of the United States unless in compliance with the noise levels prescribed for subsonic aircraft by the Administrator of the Federal Aviation Administration and in effect on September 1, 1972.

"PART B—RAILROAD NOISE EMISSION STANDARDS

"SEC. 511. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate such regulations as he deems necessary to control and abate noise which he determines is necessary to carry out section 3 of this Act. Such regulations may be modified from time to time. Regulations applicable to noise emissions resulting from the operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad shall be promulgated only after consultation with the Secretary of Transportation.

"(c) Any regulation prescribed under this section (and any modification thereof) shall become effective after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) and publishes with the regulation. Such period may not exceed one year after the regulation is prescribed unless the Administrator finds that the operation of the equipment or facilities to which the regulation applies cannot achieve the standards within one year because of the time necessarily involved in the manufacture or installation of the equipment or facilities.

"(d) Any regulation prescribed under this section shall be applicable to noise emissions resulting from the operation of equipment and facilities of surface carriers engaged in interstate commerce by railroad unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: *Provided, however,* That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation may determine to be necessitated by special local conditions or not in conflict with regulations promulgated under this part.

"SEC. 514. The terms 'carrier' and 'railroad' as used in sections 511, 512, and 513 of this part shall have the same meaning as such terms have under section 22 of title 45 of the United States Code.

"PART C—MOTOR CARRIER NOISE EMISSION STANDARDS

"SEC. 521. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate such regulations as he deems necessary to control and abate noise which he determines is necessary to carry out section 3 of this Act. Such regulations may be modified from time to time. Regulations applicable to noise emissions resulting from the operation of the equipment and facilities of motor carriers engaged in interstate commerce shall be promulgated only after consultation with the Secretary of Transportation.

"(c) Any regulation prescribed under this section (and any modification thereof) shall become effective after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) and publishes with the regulation. Such period may not exceed one year after the regulation is prescribed unless the Administrator finds that the operation of the equipment or facilities to which the regulation applies cannot achieve the standards within one year because of the time necessarily involved in the manufacture or installation of the equipment or facilities.

"(d) Any regulation prescribed under this section shall be applicable to noise emissions resulting from the operation of equipment and facilities of motor carriers engaged in interstate commerce unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: *Provided, however,* That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation, may determine to be necessitated by special local conditions or not in conflict with regulations promulgated under this part.

"SEC. 524. The term 'motor carrier' as used in sections 521, 522, and 523 of this part shall have the same meaning as those terms as defined in section 303(a) (14), (15), and (17) of title 49 of the United States Code."

SEC. 4. There is hereby authorized to be transferred to the Administrator any function or personnel of the Department of Transportation with respect to the control and abatement of aircraft noise which the President determines is necessary to carry out section 3 of this Act.

Mr. TUNNEY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to. [p. S18014]

this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"SEC. 512. The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 511 of this Act. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section and section 511 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"SEC. 513. Notwithstanding any other provision of this Act, after the effective date of regulations under this part, no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of equipment or facilities of surface carriers engaged gate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"SEC. 522. The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 521 of this part. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section and section 521 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"SEC. 523. Notwithstanding any other provision of this Act, after the effective date of regulations under this part no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of motor carriers engaged in interstate commerce unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: Provided, however, That nothing in this section shall diminish or enhance the rights of any State or polit-

1.4a(3)(d) Oct. 18: House concurred in Senate amendment, with an amendment, pp. H10261–H10262, H10287–H10300

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes, with a Senate amendment thereto, and consider the Senate amendment.

[p. H10261]

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, reserving the right to object, this bill, as the Members well recognize, is the Environmental Noise Control Act of 1972, to which I objected yesterday, principally on the basis of protest against the procedural press of year-end legislation. Since then and immediately thereafter I have been importuned by the distinguished gentleman, the chairman of the Committee on Interstate and Foreign Commerce, and many people across the length and breadth of the Nation, to withdraw my objection. I well know their fears of more stringent regulation in 1973, but rather than acceptance, now, I believe they will gain amelioration in the committee's mature deliberation. In principle I am against Federal preemption of State rights.

Mr. Speaker, I have gone into prayerful consideration of this bill, which does require unanimous consent, because of the legislative bind in which we find ourselves. I have resurrected the legislative file, with all my notes pertaining thereunto, as it passed the House by a vote of 356 to 32 on February 29 of this year, with its amendments.

Mr. Speaker, I am one of those who voted against it at the time, on the basis that it was not coordinated between the new Environmental Protection Agency and responsibilities of the Federal Aviation Agency, which I understand from my friend from West Virginia (Mr. STAGGERS), is presumably corrected in the House amendment to the Senate amendments in the House-passed version of the bill. There has been no conference in this procedure, and these is no printed report on which to base a mature judgment.

At the time of the original House consideration, my objection was predicated further on too severe penalties, the new granted right for citizens to bring civil suits leading to these too severe penalties, the fact it was applicable to much noise abatement, besides those of the transportation industry, and so forth.

I felt, Mr. Speaker, it would come back to haunt us as the occupational health and safety bill has done. I also made an annotation at that time that I thought it was too costly for experimental legislation. I have reviewed all of that and had a conference with the distinguished chairman this morning, but I regret to say in my heart and in my most considered judgment I find, with the increase costs—doubled—offered in these amendments, and as related by the chairman yesterday on page H10238 of the CONGRESSIONAL RECORD, that my conviction is more deeply founded and more profound than ever, and therefore I must object.

The SPEAKER. Objection is heard.

[p. H10262]

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes, with a Senate amend-

ment thereto, and consider the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. This Act may be cited as the "Environmental Noise Control Act of 1972".

SEC. 2. Title IV of the Clean Air Act Amendments of 1970 is amended to read as follows:

"SHORT TITLE; TABLE OF CONTENTS

"SEC. 401. This Act, including the following table of contents, may be cited as the 'Environmental Noise Control Act'.

"TABLE OF CONTENTS

"Sec. 401. Short title; table of contents.
"Sec. 402. Findings and policy.
"Sec. 403. Office of Noise Abatement and Control.
"Sec. 404. Definitions.
"Sec. 405. Research, investigation, training, and other activities.
"Sec. 406. Federal programs.
"Sec. 407. Noise criteria and control technology.
"Sec. 408. Noise emission standards for new products.
"Sec. 409. Labeling.
"Sec. 410. Imports.
"Sec. 411. Prohibited acts.
"Sec. 412. Enforcement.
"Sec. 413. Citizen suits.
"Sec. 414. Emergency situations.
"Sec. 415. Judicial review.
"Sec. 416. Records, reports, and information.
"Sec. 417. Federal procurement.
"Sec. 418. Grants for support of environmental noise planning and control programs.

"FINDINGS AND POLICY

"SEC. 402. (a) The Congress finds—

"(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

"(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

"(3) that the primary responsibility for control of noise rests with State and local governments.

"(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare.

"(c) In pursuance of this policy, the Congress authorizes the establishment of Federal noise emission standards for products distributed in commerce, and provides information to the public respecting the noise emission and noise reduction characteristics of such products. Federal action is limited to matters clearly of national concern, and is not intended to usurp the primary responsibility of State and local governments to control noise through their exercise of the traditional police power, through the regulation of the use, operation, and zoning of noise sources, and through the application of noise emission standards in procurement practices. Federal standards shall be developed only when control at the source is the most effective way to abate excessive noise levels. Federal standards shall be established only when they will contribute significantly to the reduction of noise affecting the public health or welfare. Federal standards shall be established only when they will not create unnecessary economic disruption or have a significant adverse effect on the balance of trade between domestic and foreign commerce. Federal standards shall be established only when technology is available or can reasonably be made available to enable manufacturers to meet the standards. Federal standards shall be established only when they will not reduce the safety of any product. Federal standards shall be established only when they will not limit the availability of products to consumers having special needs. Federal standards shall be established only when they will not interfere with the ability of State and local governments to protect the health and welfare of their citizens by establishing standards for their own citizens which are stricter than Federal standards.

"(d) Nothing in this Act shall be construed to affect the authority of any State or municipality to establish and enforce noise control standards, except that no State or municipality may establish or enforce a noise emission standard for a product which is different from a Federal noise emission standard applicable to such product under this Act. Nothing in this Act shall be construed to affect the authority of any State or municipality to establish and enforce standards controlling the levels of noise permitted in the ambient environment. Nothing in this Act shall be construed to affect the authority of any State or municipality to establish and enforce requirements regarding the purchase or procurement of products for its own use which are stricter than applicable Federal requirements.

"(e) Actions to control noise should be undertaken jointly with actions to control other adverse environmental effects, and should be coordinated with programs of all appropriate Federal, State, and local agencies. Federal programs, including assistance programs, shall be carried out in such a manner as to further the policy declared in this section. Federal agencies shall cooperate with State and local agencies to develop programs which will effectively reduce noise in furtherance of the policy declared in this section. In connection with any program of noise abatement and control carried out pursuant to this Act, full consideration shall be given to all aspects of the problem, including the total impact of noise (such as the effect on public health and welfare, psychological, social, economic, and aesthetic effects), the various sources of noise (including motor, construction, and transportation equipment, machinery and appliances, and other commercial and residential activities), and the general environmental impact from all sources. Such programs shall give appropriate consideration to the need for new construction, development, and growth, and the availability of the most effective alternative means of noise control consistent with such need.

"(f) Congress recognizes that the primary responsibility for the regulation of noise production rests with the States and their political subdivisions. Congress further recognizes that the Federal Government has been lax in its responsibility to control noise. Congress therefore declares that the Federal Government should exercise its authority over noise sources in order that State and local governments may effectively control noise within their jurisdictions.

"(g) Congress hereby declares that it is the policy of the United States that sufficient knowledge be developed, as rapidly as possible, and that appropriate actions be taken, to control noise in order to protect the public health and welfare. It is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

"(h) To the extent practicable, the processes, procedures, and standards established pursuant to this Act shall be consistent with international standards established pursuant to the Agreement between the United States of America and the Organization of the North Atlantic Treaty Organization on the Standardization of Noise Measurement, Descriptions, and Limits, signed at Brussels, September 21, 1971.

"(i) To the maximum extent possible consistent with the national policy set forth in section 101 of the National Environmental Policy Act of 1969, the procedures utilized for implementing such Act shall be coordinated and combined with the procedures established pursuant to this Act, so as to reduce needless paperwork and duplication of effort. Any environmental impact statement prepared pursuant to such Act with respect to any action under this Act shall be prepared by the Administrator.

"(j) Public participation in the development, revision, and enforcement of any regulation, standard, criteria, or plan established by the Administrator or any State or municipality under this Act shall be provided for, encouraged, and assisted by the Administrator and the States and municipalities. The Administrator, in cooperation with the States and municipalities, within ninety days after enactment of this section, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"OFFICE OF NOISE ABATEMENT AND CONTROL

"SEC. 403. (a) The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare and administer the provisions of this Act.

"(b) The Administrator is authorized to prescribe such regulations as are necessary to carry out his function under this Act. The Administrator may delegate to any officer or employee of the Environmental Protection Agency such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient.

"(c) Upon the request of an environmental noise control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"(d) Payments under grants made under this Act may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administrator.

"DEFINITIONS

"SEC. 404. For purposes of this title and title V of this Act:

"(a) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(b) The term 'person' means an individ-

trol programs.
"Sec. 419. Development of low-noise-emission products.
"Sec. 420. Authorization of appropriations.

"FINDINGS AND POLICY

"SEC. 402. (a) The Congress finds—

"(1) that environmental noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

"(2) that the major sources of noise emissions include aircraft, vehicles, machinery, appliances, and other products in commerce; and

"(3) that, while primary responsibility for control of environmental noise rests with State and local governments, Federal regulatory action is essential to deal with major noise emission sources, and Federal assistance is necessary to encourage and support programs for the control of environmental noise.

"(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their public health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in environmental noise control, to authorize the establishment of Federal noise emission standards of new products, to provide information to the public of the noise emission and noise reduction characteristics of new products, to encourage and support State and municipal programs for the control of environmental noise through planning and program grants to State and local environmental noise control agencies, and to provide information to the public on the control of environmental noise through regulation of use of products and other methods and procedures to reduce environmental noise.

"(c) Public participation in the development, revision, and enforcement of any regulation, noise emission standard, program or

ual, corporation, partnership, or association, and (except as provided in section 413(a)(1) of this Act) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

"(c) The term 'product' means any manufactured article or goods or component thereof; except that such term does not include—

"(1) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act, as amended (49 U.S.C. 1431); or

"(2)(A) any military aircraft, rockets, weapons, or equipment which are designed for combat use; or (B) any aircraft, rockets, launch vehicles, spacecraft, or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration, as determined by the President under section 406 of this Act.

"(d) The term 'ultimate purchaser' means the first person who in good faith purchases a product for purposes other than resale.

"(e) The term 'new product' means a product the equitable or legal title to which has never been transferred to an ultimate purchaser. Products remanufactured or rebuilt by a manufacturer from used products to restore original functions shall be considered to be new products for the purposes of this title and title V of this Act.

"(f) The term 'manufacturer' means any person engaged in the manufacturing, assembling, or importing of new products, or who acts for, and is controlled by, any such person in connection with the distribution of such products, but shall not include any dealer with respect to any new product received by him in commerce.

"(g) The term 'dealer' means any person engaged in the sale or the distribution of new products to the ultimate purchaser who may prepare a product for sale or distribution to the ultimate purchaser: *Provided,*

That when such dealer's preparatory or final assembly work involves modifications which increase the noise emission characteristics of such product, such dealer shall then be considered a manufacturer of such product for the purposes of this title and title V of this Act.

"(h) The term 'commerce' means trade, traffic, commerce, or transportation—

"(1) between a place in a State and any place outside thereof, or

"(2) which affects trade, traffic, commerce, or transportation described in paragraph (1) of this subsection.

"(i) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"(j) The term 'Federal agency' means any department, agency, or instrumentality of the United States including the United States Postal Service.

"(k) The term 'environmental noise control agency' means any of the following:

"(1) A single State agency designated by the Governor of that State as the official State environmental noise control agency for purposes of this Act:

"(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of environmental noise;

"(3) A city, county, or other local government authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of environmental noise; or

"(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of environmental noise.

"(l) The term 'municipality' means a city, town, borough, county, parish, district, or Bureau of Standards, Department of Commerce.

"(3) encourage, cooperate with, and render technical services (including the drafting of model ordinances) and provide financial assistance to environmental noise control agencies and other appropriate public or private agencies, institutions and organizations, and individuals in the conduct of such activities;

"(4) conduct investigations and research and make surveys concerning any specific problem of environmental noise in cooperation with any noise pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the noise is located; and

"(5) establish technical advisory committees composed of recognized experts in various aspects of noise to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research, and for other purposes.

"(b) In carrying out the provisions of the preceding subsection the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of activities pursuant to subsection (a) and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

"(2) cooperate with other Federal agencies, with environmental noise control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities, including technical assistance;

"(3) make grants to environmental noise control agencies, to other public or nonprofit

fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 402 of this Act.

"(b) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the emission of noise shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products specified pursuant to section 404 (c)(2) of this Act may be granted from the requirements of sections 408, 511, and 521 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c)(1) The Administrator shall coordinate the programs of all Federal agencies relating

other public body created by or pursuant to State law.

"(m) The term 'noise emission standard' means a statement of a noise level or other acoustical characteristic which may not be exceeded under specified conditions or method of operation. Such standard shall include the test procedures to be followed and shall be stated in terms of performance rather than design criteria.

"(n) The term 'environmental noise' means the intensity, duration, and character of sounds from all sources.

"(o) The term 'cumulative noise exposure' means the exposure of individuals in defined areas around airports to noise from aircraft operations weighted by time of day."

"RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES

"SEC. 405. (a) The Administrator shall establish a national research and development program for the prevention and control of environmental noise and as part of such program shall—

"(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention and control of environmental noise;

"(2) conduct and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

"(A) investigation of the direct or indirect effects of noise on humans (including physiological and psychological effects), and the direct or indirect effects of noise on domestic animals, fish, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects; and

"(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National private agencies, institutions and organizations, and to individuals, for purposes stated in subsection (a) of this section;

"(4) contract with public or private agencies, institutions and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

"(5) provide training (without fee) for, and make training grants to personnel of environmental noise control agencies and other persons with suitable qualifications;

"(6) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

"(7) collect and make available through publications and other appropriate means, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on physical, and human and other effects of varying levels of noise and other information pertaining to noise and the prevention and control thereof; and

"(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of environmental noise.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known noise sources.

"(d) In carrying out research pursuant to this Act, the Administrator shall give special emphasis to research on the short- and long-term effects of environmental noise on public health and welfare.

"FEDERAL PROGRAMS

"SEC. 406. (a) The Congress authorizes and directs that Federal agencies shall, to the to environmental noise research and environmental noise control. Each Federal agency shall furnish to the Administrator such information as he may reasonably require, to determine, as provided under section 309 of the Clean Air Act, if the nature, scope, and results of the noise research and environmental noise control programs of the agency are consistent with the purposes of this Act.

"(2) Each Federal agency shall consult with the Administrator in prescribing any regulations respecting environmental noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation of any Federal agency, respecting noise, does not protect the public health and welfare to the extent he believes to be required he shall request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request shall be published in the Federal Register and shall be accompanied by a detailed statement of the information on which such request is based. Such agency shall complete the requested review and report to the Administrator within 180 days after the date of the publication in the Federal Register of the request. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation.

"(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish annually a report to the Congress on the status and progress of Federal activities relating to environmental noise research and environmental noise control. This report shall describe the environmental noise control programs of each Federal agency and assess the contributions of those programs to the Fed-

eral Government's overall efforts to control environmental noise.

"NOISE CRITERIA AND CONTROL TECHNOLOGY

"SEC. 407. (a) The Administrator shall, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, within nine months after the date of enactment of this section, issue noise criteria. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise, and such criteria shall set forth levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

"(b) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall within fifteen months after date of enactment of this section compile and publish a report or series of reports (1) identifying products (or classes of products) which on the basis of information available to him appear to be major sources of noise, and (2) giving information on the processes, procedures, or operating methods which result in the control of the emission of noise, to implement noise emission control standards under sections 408, 501, 503, 511, and 521 of this Act, which such information shall include technical and other data, including costs, as are available on alternative methods of noise control.

"(c) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall compile and provide information on methods and techniques of controlling environmental noise through, among other means, product use control, land use regulation, and construction and building standthan eighteen months after the date of enactment of this Act, and shall apply to any appropriate new product described in paragraph (1) which is identified (or in a class identified) in any report published under section 407(b)(1) of this Act on or before the date of publication of such initial proposed regulations.

"(B) In the case of any new product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 407(b)(1) of this Act after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) of this subsection for such new product shall be promulgated by the Administrator not later than nine months after such report is published.

"(b) The Administrator may publish proposed regulations establishing noise emission standards respecting any new product for which he is not required to establish standards under subsection (a) of this section but for which, in his judgment, noise emission standards are requisite to protect the public health and welfare. Not later than six months after the date of publication of such regulations respecting such new product, he shall promulgate regulations establishing noise emission standards for such new product.

"(c)(1) Any noise emission standard prescribed under subsection (a) or (b) of this section respecting a new product shall set limits on noise emissions from such new product over the useful life of the product (as determined by the Administrator taking into account the range of possible uses for the same type of product) and shall be a standard which in the Administrator's judgment, based on information published under section 407 of this Act, reflects the degree of noise reduction achievable through the applifor any standards prescribed under this section, the manufacturer of each new product shall warrant to the ultimate purchaser and each subsequent purchaser that such product is (A) designed, built, and equipped so as to conform at the time of sale with applicable regulations under this section, and (B) free from defects in materials and workmanship which cause such product, under normal use, operation, and maintenance to fail to conform wtih applicable regulations for its useful life, as determined by the Administrator, taking into account the range of uses for such product.

"(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

"(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for his purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act, as amended.

"(e)(1) No State or political subdivision thereof may adopt or enforce, with respect to (A) any product manufactured after the effective date of a regulation prescribed by the Administrator under this section or (B) any component incorporated into such product by the manufacturer of such product, any standard setting a limit on noise emissions from such product enforceable against the manufacturer which is not identical to

ards. Such information shall be compiled and published to assist State and local governments in establishing and enforcing environmental noise control programs supported under section 418 of this Act.

"(d) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

"(e) Any report under subsection (b)(1) of this section identifying major noise sources shall be published in the Federal Register. The publication or revision of any criteria or information on control techniques under this section shall be announced in the Federal Register, and copies shall be made available to the general public.

"NOISE EMISSION STANDARDS FOR NEW PRODUCTS

"SEC. 408. (a)(1) The Administrator shall publish proposed regulations establishing noise emission standards for new products or classes of products—

"(A) identified in any report published under section 407(b)(1) of this Act as a major source of noise, and

"(B) which falls in one of the following categories:

"(i) Construction equipment.

"(ii) Transportation equipment (including snowmobiles, motorcycles, and recreational vehicles and related equipment).

"(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

"(iv) Turbines and compressors.

"(v) Electrical and electronic equipment, except those products which are designed for the production or reproduction of music or sound (to the extent such reproduction is identical, except in amplitude, to the source reproduced).

"(vi) Percussion and explosive equipment.

"(2)(A) Regulations proposed under paragraph (1) shall be promulgated not later cation of the best available technology, taking into account the cost of compliance. In establishing such standards for any new product the Administrator shall assure that such standards are compatible with standards under other laws respecting emission of air or water pollutants and safety, including (but not limited to) any standard under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Clean Air Act (42 U.S.C. 1857 et seq.), or the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.). Any standard prescribed under subsection (a) or (b) of this section may contain provisions respecting instructions of the manufacturer for the maintenance or use of the product.

"(2) After publication of any proposed regulations under this section, the Administrator shall allow the public an opportunity to participate in rulemaking in accordance with section 553 of title 5, United States Code.

"(3) The Administrator may revise any noise emission standard prescribed by him in accordance with this section.

"(4) Any regulation prescribed under this section (and any revision thereof) shall take effect after a period not to exceed two years or such lesser time as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. Standards prescribed under this section shall apply to products manufactured on or after the effective date of such standards.

"(5) The Administrator may prescribe regulations defining 'effective date' for the purpose of assuring that products manufactured before the effective date of a regulation under this section were not manufactured for purposes of circumventing the effective date of such regulations.

"(d)(1) On and after the effective date the standard prescribed by the Administrator.

"(2) Subject to paragraph (1) of this subsection, nothing in this section shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products: *Provided*, That such control, licensing, regulation, or restriction shall not, in the case of any motor carrier engaged in interstate commerce or any equipment or facility of a surface carrier engaged in interstate commerce by railroad, result in a limit on noise emissions for any carriers, equipment, or facility different than any limit contained in any regulation applicable thereto prescribed by the Administrator under this section or title V of this Act, except that in the case of such carriers the Administrator may by regulation, upon the petition of a State or political subdivision thereof and after consultation with the Secretary of Transportation, permit such more restrictive limits on such noise emissions through the application of use, operation, or movement controls or regulations as in his judgment are necessitated by special local conditions.

"(3) If, after promulgation of any standards and regulations under this section and prior to their effective date, a product is manufactured in compliance with such standards and regulations such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such product on the date of such compliance.

"LABELING

"SEC. 409. (a) The Administrator shall by regulation for any new product (or class thereof)—

"(1) identified pursuant to section 407(b)(1); or

"(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise, require either (1) that a notice of the level of noise emission including the relationship to any applicable noise emission standard under secton 408, or notice of the effectiveness in reducing noise (as the case may be) supplied by the manufacturer, be affixed to the new product and to the outside of its container at the time of its sale to the ultimate purchaser, or (2) that such notice of such level or effectiveness supplied by the manufacturer otherwise be given to the prospective user. He shall prescribe the form of the notice and the methods and units of measurement to be used for this purpose. Section 408(c)(2) shall apply to the promulgation of any regulation under this section.

"(b) This section does not prevent any State or political subdivision thereof from regulating product labeling in any way not in conflict with regulations promulgated by the Administrator under this section.

"IMPORTS

"SEC. 410. Any product offered for entry into the United States for which a standard or regulation has become effective pursuant to this title, which is not accompanied by certificate of compliance in the form prescribed by the Administrator, shall be refused entry into the United States. If a product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause disposal or storage of any product refused delivery which has not been exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such product, together with the duty thereon, and of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(3)(A) In the case of a manufacturer or dealer, the assistance of any person in a violation of paragraph (2)(A) of this subsection or the furnishing of information with respect to a violation of paragraph (2)(A) of this subsection.

"(B) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(a) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(4)(A) The removal by any person of any notice affixed to a product or container pursuant to regulations promulgated under section 409(a) of this Act prior to the sale of the new product to the ultimate purchaser, or (B) the sale of such product or container from which such notice has been removed.

"(5) The importation into the United States by any person of any new product in violation of regulations promulgated under section 410 of this Act that are applicable to such product.

"(6) The failure of any person to comply with any order issued under section 412(d) or 414 of this Act.

"(b)(1) The Administrator may after public hearings exempt for a specified period of time not to exceed one year, any new product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a) of this section upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or with such violation, to make public notice of such risks, to recall any products responsible for such violation, to repurchase any such products, or to replace any such products. Such order may also require the seizure of any such products by the Administrator.

"(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5 of the United States Code.

"(e) When authorized by State law—

"(1) The Administrator may, by agreement with any environmental noise control agency with or without reimbursement, authorize law enforcement officers or other officers or employees of such environmental noise control agency to bring civil actions in the appropriate State courts to restrain any person from violating section 411(a).

"(2) The courts of such State may entertain any such civil action.

Nothing in this section shall affect the authority of an environmental noise control agency to commence a civil action under section 413 of this Act.

"CITIZEN SUITS

SEC. 413. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (f) of this section), or

"(2) against—

"(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which

on refusal to return such product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding it from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on products which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"PROHIBITED ACTS

"SEC. 411. (a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

"(1) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product, aircraft, or aircraft engine manufactured after the effective date of noise emission control standards prescribed under sections 408, 501, 503, 511, and 521 of this Act which are applicable to such product, unless such product is in conformity with such standards.

"(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, testing, repair, or replacement, of any device or element of design incorporated into any product, aircraft, or aircraft engine in compliance with noise emission standards promulgated under sections 408, 501, 503, 511, and 521 of this Act prior to its sale or delivery to the ultimate purchaser or during its term of use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative.

"(3) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(b) training, or for reasons of national security.

"(2) A new product intended solely for export, and so labeled or tagged on the outside of the container and on the product itself, shall be subject to noise emission standards of the country which imports such product. In no event shall the Administrator allow the export from the United States of any product subject to section 414 of this Act as a product, the noise emissions from which are an imminent and substantial endangerment to public health.

"ENFORCEMENT

"SEC. 412. (a) Any person who willfully or negligently violates paragraph (1), (3), (5), or (6) of subsection (a) of section 411 of this Act shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. In the case of a violation of paragraph (1) or (6) of subsection (a) of section 411 of this Act the fine shall be not less than $2,500 per day of violation. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(b) For the purpose of this section, each day of violation of section 411(a) of this Act shall constitute a separate violation of that section.

"(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 411(a) of this Act.

"(d)(1) Whenever any person is in violation of section 411(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare. Such relief may include an order requiring such person to cease such violation, to notify ultimate purchasers of the risks associated is not discretionary with such Administrator.

"(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under this Act or section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise emission control requirement with respect to aircraft under this Act or section 611 of the Federal Aviation Act as amended) and (ii) to any alleged violator of such requirement, or

"(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

"(c) In an action under this section, the Administrator of the Environmental Protection Agency or, if appropriate, the Administrator of the Federal Aviation Administra-

tion, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brougmt pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

"(f) For purposes of this section, the term 'noise control requirement' means any prohibition, standard, or requirement under section 408, 411, 501, 503, 508, 511, or 521 of this Act or a prohibition, standard, rule, or regulation issued under section 611 of the Federal Aviation Act of 1958, as amended.

"EMERGENCY SITUATIONS

"SEC. 414. (a) The Administrator or the Attorney General shall file, in a district court of the United States having venue thereof, an action against any product the noise emissions from which are an imminent and substantial endangerment to public health, or against any person who manufactures for sale, sells, or offers for sale, in commerce, or imports into the United States, such product. Such an action may be filed, notwithstanding the existence or nonexistence of a noise emission standard applicable to a product, or the pendency of administrative proceedings initiated pursuant to this Act.

"(b) The district court in which such action is filed shall have jurisdiction to declare such product a product the noise emissions from which are an imminent and substantial endangerment to public health, and to grant (as ancillary to such declaration or in lieu thereof) such temporary or istrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence;

"(c) with respect to relief pending review of an action by the Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

"RECORDS, REPORTS, AND INFORMATION

"SEC. 416. (a) Such manufacturer of a new product, aircraft, or aircraft engine to which standards or regulations under sections 408, 501, 503, 511, or 521 of this Act or regulations under section 409 apply shall (1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act, (2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and (3) make new products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator, to the extent required by regulations of the Administrator.

"(b) For the purpose of obtaining information to carry out titles IV and V of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may adminis- under consideration in a rulemaking or adjudicatory proceeding in the Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (c) of this section.

"(e) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"FEDERAL PROCUREMENT

"SEC. 417. (a) No Federal agency may enter into any contract for the procurement of goods, materials, or services with any person, who has been convicted of a criminal offense under section 412(a) of this Act and who, upon consideration of the gravity of the violation and the good faith of the person charged in attempting to achieve rapid compliance, the Administrator determines should be subject to the prohibition of this section. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to a conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act, the President shall, not more than one hundred and eighty days after its enactment, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purposes

permanent equitable relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of the original purchasers of such product of such risk, public notice, the recall, the repurchase, the repair, the replacement, or the seizure of such product.

"JUDICIAL REVIEW

"SEC. 415. Any judicial review of final regulations promulgated under this Act shall be in accordance with sections 701–706 of title 5 of the United States Code, except that:

"(a) a petition for review of action of the Administrator in promulgating any standard or regulation under section 408, 501, 511, or 521 of this Act or any labeling regulation under section 409 of this Act may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil proceedings for enforcement except as to whether the administrative and judicial procedures of this Act have been observed;

"(b) if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(c) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information or particular part thereof (other than noise emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control, from the duly authorized committees of the Congress.

"(d) Any communication from a person to the Administrator or any other employee of the Agency concerning a matter presently and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States, and he shall notify the Congress of such exemption.

"GRANTS FOR SUPPORT OF ENVIRONMENTAL NOISE PLANNING AND CONTROL PROGRAMS

"SEC. 418. (a)(1). The Administrator may make grants to environmental noise control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining programs for the prevention and control of environmental noise.

"(2) Before approving any grant under this subsection to any environmental noise control agency within the meaning of sections 404(k)(3) and 404(k)(4) of this Act, the Administrator (when appropriate) shall receive assurances that such agency provides for adequate representation of State, interstate, local, and international interests in its area of jurisdiction. Before approving any grant under this subsection the Administrator shall determine that the recipient in the appropriate environmental noise control agency for the jurisdictions involved in order to minimize overlap and duplication of effort.

"(3) Before approving any planning grant under this subsection to any environmental noise control agency within the meaning of sections 404(k)(3) and 404(k)(4) of this Act, the Administrator shall receive assurances that such agency has the capability of developing and enforcing a comprehensive environmental noise control plan.

"(4) Before approving any grant for pur-

poses other than developing a program under this section to any environmental noise control agency within the meaning of section 404 of this Act, the Administrator shall determine that such agency has the authority—

"(A) to regulate the location, modification, and construction of any facilities within the area of jurisdiction of such agency which may result in the generation of environmental noise; and

"(B) to assure that the use of any product in the area of jurisdiction of such agency will not exceed applicable noise control levels;

"(C) to (i) identify, if appropriate, sources of environmental noise within the jurisdiction of such agency, and (ii) set forth procedures, processes, and methods (including land use requirements and design and construction standards) to control such sources to the extent feasible;

"(D) to acquire, maintain, and operate noise monitoring facilities in the field and otherwise, making public reports of noise emissions and levels of environmental noise disclosed by such monitoring, which reports shall be related to any applicable standards or limitations; and

"(E) to issue abatement orders.

"(b) From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from time to time make grants to environmental noise control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purposes of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential environmental noise problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention year ending June 30, 1973, $7,500,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"EVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

"SEC. 419. (a) For the purpose of this section:

"(1) The term 'Committee' means the Low-Noise-Emission Product Advisory Committee.

"(2) The term 'Federal Government' includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

"(3) The term 'low-noise-emission product' means any product which emits noise in amounts significantly below the level of other products in the competitive market for such product at the time of procurement.

"(4) The term 'retail price' means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

"(b)(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

"(2) The Administrator shall certify any product—

"(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

"(B) which is a low-noise-emission product as determined by the Administrator; and

"(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

"(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which

"(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

"(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

"(c)(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

"(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

"(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve op-

and control of environmental noise unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

"(c) Not more than 10 per centum of the total funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for environmental noise control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

"(d) The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 403(c) of this Act, when such detail is for the convenience of, and at the request of, such recipient and for the purposes of carrying out the provisions of this Act. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency.

"(e) There is authorized to be appropriated for this section $5,000,000 for fiscal

products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(4) Certification under this section shall be effective for a period of one year from the date of issuance.

"(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

"(B) The Administrator shall publish in the Federal Register a notice of each application received.

"(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

"(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

"(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

erating costs significantly in excess of those products for which it is a certified substitute.

"(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

"(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at the time of purchase he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

"(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

"(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 420. There are authorized to be appropriated to carry out this Act (other than sections 418 and 419) $18,000,000 for the fiscal year ending June 30, 1973; $36,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975."

SEC. 3. The Clean Air Act is amended to add a new title V as follows:

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"TITLE V—MAJOR MOVING SOURCES

"PART A—CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 501. (a) In order to afford present and future relief and provide protection to public health and welfare from aircraft noise and sonic boom—

"(1) the Administrator of the Environmental Protection Agency, after consultation with the Administrator of the Federal Aviation Administration, shall promulgate and amend standards for the measurement of aircraft and aircraft engine noise and sonic boom; and

"(2) the Administrator of the Environmental Protection Agency shall promulgate and amend regulations with respect to noise emission standard for aircraft and aircraft engines which he determines are necessary and adequate to protect the public health and welfare with an adequate margin of safety.

"(b)(1) Any regulations under this section or amendments thereof, with respect to noise emissions from types of aircraft or aircraft engines, shall reflect the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the reasonableness of the cost of compliance and the demonstrable public benefit that will result, determined by the Administrator of the Environmental Protection Agency after consultation with the Administrator of the Federal Aviation Administration and shall not be promulgated until the Administrator of the Federal Aviation Administration has determined that such regulations are consistent with the highest degree of safety in air commerce and that any proposed standard, rule, or regulation has been demonstrated to be technologically available for application to types of aircraft, aircraft engine, appliance, or certificate to which it will apply.

"(2) All standards, rules, and regulations individuals, shall conduct a study of the means of financing the retrofitting of existing jet aircraft (excluding aircraft owned or operated by any military agency) in order to carry out the purposes of this part, and shall make recommendations, taking into consideration what is economically reasonable, technologically practicable, and appropriate for the types of aircraft and aircraft engines to which the recommendations will apply. He shall report on such study to the Committees on Interstate and Foreign Commerce, and Ways and Means of the House of Representatives, and the Committees on Commerce, Finance, and Public Works of the Senate by July 1, 1973, together with his recommendations for whatever legislation may be required.

"SEC. 503. (a) The Secretary of Transportation, after consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 501 of this Act. The regulations of the Secretary of Transportation shall include provisions making such standards respecting noise emissions from any type of aircraft applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act, as amended, or the Department of Transportation Act, as amended. Such Secretary shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"(b) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards, rules, or regulations applied to aircraft or aircraft engines existing on the date of enactment of the Environmental Noise Control Act of 1972, is at issue, the certificate holder shall have the same notice and apexceed mach 1 issued to the operator under this section.

"(b) For a research and development flight in a designated flight test area an authorization to exceed mach 1 may be issued if the applicant shows one or more of the following:

"(1) The flight is necessary to show compliance with an airworthiness regulation or is necessary for aircraft development.

"(2) The flight is necessary to determine the sonic boom characteristics of the airplane, or is necessary to establish means of reducing or eliminating the effects of sonic boom.

"(3) The flight is necessary to demonstrate the conditions and limitations under which speeds greater than a true flight mach number of 1 will not cause a sonic boom to reach the land or water surface of the earth.

"(c) An application for an authorization to exceed mach 1 must be made on a form and in a manner prescribed by the Federal Aviation Administrator in consultation with the Administrator of the Environmental Protection Agency. In addition, for an authorization covered by subsection (b) of this section, each application must contain—

"(1) information showing that operation at speeds greater than mach 1 is necessary to accomplish one of the purposes specified in subsection (b) of this section;

"(2) a description of the flight test area proposed by the applicant; and

"(3) conditions and limitations that insure that no sonic boom will reach the land or water surface outside of the designated flight test area.

"(d) An application for an authorization to exceed mach 1 shall be denied whenever the Administrator of the Environmental Protection Agency finds that such research and development flight or flights will adversely affect public health or welfare or the quality of the environment.

"(e) An authorization to exceed mach 1 is effective until it expires, or until it is sur-

prescribed pursuant to section 611 of the Federal Aviation Act, as amended, prior to the date of enactment of the Environmental Noise Control Act of 1972 shall remain in effect until amended or revoked by subsequent standards, rules, or regulations promulgated and approved pursuant to this part: *Provided, however,* That the Administrator of the Environmental Protection Agency, within nine months of the date of enactment of this Act, shall review all noise emission standards, rules, or regulations in effect under section 611 of the Federal Aviation Act, as amended, prior to the date of enactment of the title.

"(c) Each Federal agency with regulatory authority over air commerce, aircraft or airport operations, or aircraft noise emissions shall exercise such regulatory authority so as to reduce noise in airport environments and surrounding areas.

"SEC. 502. (a) The Administrator of the Environmental Protection Agency, after consultation with appropriate Federal, State, and local agencies and interested persons, shall conduct a study of the (a) adequacy of Federal Aviation Administration flight and operational noise controls; (b) adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phaseout of existing aircraft; (c) implications of identifying and achieving levels of cumulative noise exposure around airports; and (d) additional measures available to airport operators and local governments to control aircraft noise. He shall report on such study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committees on Commerce and Public Works of the Senate within one year after enactment of this title.

"(b) The Secretary of Transportation, after consultation with the appropriate Federal, State, and local agencies and interested peal rights as are contained in section 609 of the Federal Aviation Act, as amended, except that in any appeal to the Natonal Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standards, rules, or regulations, and that such amendment, modification, or revocation by the Board is consistent with safety in air transportation.

"SEC. 504. The Administrator of the Federal Aviation Administration shall not issue a type certificate under section 603(a) of the Federal Aviation Act, as amended, for any aircraft, or for any aircraft engine, propeller, or appliance that affects significantly the noise or sonic boom characteristics of of any aircraft, unless such type certificates apply all of the standards promulgated by the Administrator of the Environmental Protection Agency prior to the date of issuance of such certificates.

"SEC. 505. No State or political subdivision thereof may adopt or enforce any standard respecting noise emissions from any aircraft or engine thereof.

"SEC. 506. Terms used in this part (other than Administrator) shall have the same meaning as such terms have under section 101 of the Federal Aviation Act of 1958, as amended. Notwithstanding any other provision of this Act, the sole authority to establish aircraft noise emission standards is contained in part A of this title.

"CIVIC AIRCRAFT SONIC BOOM

"SEC. 507. (a) No person may operate a civil aircraft over the territory of the United States, the territorial sea of the United States, or the waters of the contiguous zone (as defined under Article 24 of the Conservation of the Territorial Sea and the Contiguous Zone) at a true flight mach number greater than 1 except in compliance with the conditions and limitations in an authorization to rendered, and shall be terminated by the Administrator whenever he finds that such action is necessary to protect public health or welfare or the quality of the environment.

"(f) Any violation of this section shall be subject to the penalties prescribed under subsection (a) of section 412 of this Act.

"SUPERSONIC AIRCRAFT

"SEC. 508. No civil aircraft capable of flying at supersonic speed shall land at any place under the jurisdiction of the United States unless in compliance wtih the noise levels prescribed for subsonic aircraft by the Administrator of the Federal Aviation Administration and in effect on September 1, 1972.

"PART B—RAILROAD NOISE EMISSION STANDARDS

"SEC. 511. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"SEC. 512. The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 511 of this Act. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section and section 511 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"SEC. 513. Notwithstanding any other provision of this Act, after the effective date of regulations under this part, no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of equipment or facilities of surface carriers engaged in interstate commerce by railroad unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: Provided, however, That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation, may determine to be necessitated by special local conditions or not in conflict with regulations promulgated under this part.

"SEC. 524. The term 'motor carrier' as used in sections 521, 522, and 523 of this part shall effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"SEC. 522. The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 521 of this part. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section and section 521 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"SEC. 523. Notwithstanding any other provision of this Act, after the effective date of regulations u nder this part no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of motor carriers engaged in interstate commerce unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: *Provided, however,* That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation, may determine to be necessitated by special local conditions or not in conflict with regulations promulgated under this part.

"SEC. 524. The term 'motor carrier' as used in sections 521, 522, and 523 of this part shall

Mr. HALL. Further reserving the right to object, is it the gentleman's intention to move that sliding scale, which I think is much too much, as voted in the House version up to the years 1973, 1974, and 1975, with the $3 million, $12 million, and $6 million respectively, inasmuch as 1972 has now expired?

Mr. STAGGERS. That is correct.

Mr. HALL. May I ask the distinguished gentleman if this will be included in his amendment to the Senate amendment to the House-passed bill, as passed on February 29, 1972?

Mr. STAGGERS. I did not get the gentleman's question.

Mr. HALL. Is it the gentleman's intention to include the corrected dates and the amounts, the amounts the gentleman now proposes to offer to the Senate amendments to the House-passed bill?

Mr. STAGGERS. That is right. Yes, sir.

Mr. HALL. Before I grant unanimous consent I want to be convinced and I was certain the gentleman said he was "pretty sure."

Furthermore, Mr. Speaker, I want to be certain that the power of the FAA to regulate safety and noise-producing air transportation devices is maintained, rather than granted, and the other body would have done, to the Environmental Protection Agency, the difference being I have had a chance to restudy the bill since the objections of yesterday.

Mr. STAGGERS. Yes, sir, if the gentleman will yield. I can assure the gentleman beyond any shadow of a doubt that the safety of our airlines still remains and will remain with FAA. This

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mental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation may determine to be necessitated by special local conditions or not in conflict with regulations promulgated under this part.

"SEC. 514. The terms 'carrier' and 'railroad' as used in sections 511, 512, and 513 of this part shall have the same meaning as such terms have under section 22 of title 45 of the United States Code.

"PART C—MOTOR CARRIER NOISE EMISSION STANDARDS

"SEC. 521. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take have the same meaning as those terms as defined in section 303(a) (14), (15), and (17) of title 49 of the United States Code."

SEC. 4. There is hereby authorized to be transferred to the Administrator any function or personnel of the Department of Transportation with respect to the control and abatement of aircraft noise which the President determines is necessary to carry out section 3 of this Act.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask the gentleman what the intent is in this oft called so-called noise pollution abatement bill, which has been objected to on two occasions before: First, because of the procedure under which it is brought in the waning hours; and second, because of the substance of the bill. What is different about the proposed new amendment before we give unanimous consent to consider the Senate amendment read? I yield for that purpose.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, the only difference would be the amount of money. We would go back to the original House amount of $3 million, $6 million, and $12 million. The Senate had $18 million, $36 million, and $50 million. We had agreed on a compromise of $5 million, $10 million and $15 million, but we would go back to the original amounts which we had when we passed the bill originally.

is the intention of the House. The reason why I objected to the Senate amendments is that they would give the noise-regulation authority to the EPA. I can assure the gentleman beyond any shadow of a doubt the safety will remain with FAA.

Mr. HALL. Are the three amendments the same as the gentleman has provided me with the authorized appropriations at the bottom?

Mr. STAGGERS. They are.

Mr. HALL. Mr. Speaker, may I further query the gentleman as to whether or not this is not a device to which suddenly industry has agreed, for a fear of a much more harsh anti-noise pollution bill in the 93d Congress and because this does include preemption of the States' rights to each and severally develop anti-noise emission devices of their own?

Mr. STAGGERS. I cannot say what industry's intention may be, but I can say to the gentleman what my intention is in trying to get this bill passed. We have evidence that across America some cities and States are trying to do pass noise regulations. Certainly we do not want that to happen. It would harass industry and progress in America. That is the reason why I want to get this bill passed during this session.

Mr. HALL. And of course since it is interstate commerce, it comes from the gentleman's committee and it involves more than interstate commerce in many instances, since it involves aviation compacts and large jet airports, and so forth.

Mr. STAGGERS. Yes.

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Mr. HALL. One other thing that worries me, and then I shall certainly withdraw my objection to the gentleman having the Senate amendments considered as read, and that is the question of whether or not there is due process and judicial recourse for the citizen civil suits that this bill makes in order, or does the gentleman's amendment take those out?

Mr. STAGGERS. It does not. There is certainly all the recourse in the world for anyone interested.

Mr. HALL. In other words, if some person were arrested and hailed into court as a result of a civil suit, he would have appellate rights and judicial review right up the line as in any other case?

Mr. STAGGERS. Yes, all the way, I can assure the gentleman.

Mr. HALL. I still think the penalties are too severe, but, Mr. Speaker, for the time being I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from West Virginia that the reading of the Senate amendment be dispensed with?

There was no objection.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to concur in the Senate amendment with the following amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act of 1958; or

(B) (i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 6 or section 8 which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products.

(7) the term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

may be granted from the requirements of sections 6, 17, and 18 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c) (1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time

SHORT TITLE

SECTION 1. This Act may be cited as the "Noise Control Act of 1972".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual, corporation, partnership, or association, and (except as provided in sections 11(e) and 12(a)) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

(11) The term "environmental noise" means the intensity, duration, and the character of sounds from all sources.

FEDERAL PROGRAMS

SEC. 4. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 2(b).

(b) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) having jurisdiction over any property or facility, or

(2) engaged in any activity resulting, or which may result, in the emission of noise, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products referred to in section 3(3)(B) of this Act, as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 611 of the Federal Aviation Act of 1958 (as amended by section 7 of this Act) shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise reseach and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise.

IDENTIFICATION OF MAJOR NOISE SOURCES; NOISE CRITERIA AND CONTROL TECHNOLOGY

SEC. 5. (a)(1) The Administrator shall, after consultation with appropriate Federal agencies and within nine months of the date of the enactment of this Act, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(2) The Administrator shall, after consultation with appropriate Federal agencies and within twelve months of the date of the enactment of this Act, publish information on the levels of environmenal noise the attainment and maintenace of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

(b) The Administrator shall, after consultation with appropriate Federal agencies,

compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act.

(c) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

(d) Any report (or revision thereof) under subsection (b)(1) identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or information on control techniques shall be anounced in the Federal Register, and copies shall be made available to the general public.

NOISE EMISSION STANDARDS FOR PRODUCTS DISTRIBUTED IN COMMERCE

SEC. 6. (a)(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c), for each product—

(A) which is identified (or is part of a class identified) in any report published under section 5(b)(1) as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

(i) Construction equipment.

(ii) Transportation equipment (including recreational vehicles and related equipment).

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

(2)(A) Initial proposed regulations under ment, noise emission standards are feasible and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c), for such product.

(c)(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 5, is 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 the application of the best available technology, and the cost of compliance. In establishing such a standard for any product, the Administrator shall give appropriate consideration to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966, the Clean Air Act, and the Federal Water Pollution Control Act. Any such noise emission standards shall be a performance standard. In addition, any regulation under subsection (a) or (b) (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to participate in rulemaking in accordance with the first sentence of section 553(c) of title 5, United States Code.

(3) The Administrator may revise any reg-

(A) with respect to any new product for which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Subject to sections 17 and 18, nothing in this section precludes or denies the right of any State or political subdivision thereof to establish and enforce controls on environmental noise (or one or more sources thereof) through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products.

AIRCRAFT NOISE STANDARDS

SEC. 7. (a) The Administrator, after consultation with appropriate Federal, State, and local agencies and interested persons, shall conduct a study of the (1) adequacy of Federal Aviation Administration flight and operational noise controls; (2) adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phaseout of existing aircraft; (3) implications of identifying and achieving levels of cumulative noise exposure around airports; and (4) additional measures available to airport operators and local governments to control aircraft noise. He shall report on such study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committees on Commerce and Public Works of the Senate within nine months after the date of the enactment of this Act.

(b) Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) is amended to read as follows:

"CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

paragraph (1) shall be published not later than eighteen months after the date of enactment of this Act, and shall apply to any product described in paragraph (1) which is identified (or is a part of a class identified) as a major source of noise in any report published under section 5(b)(1) on or before the date of publication of such initial proposed regulations.

(B) In the case of any product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 5(b)(1) after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) for such product shall be proposed and published by the Administrator not later than eighteen months after such report is published.

(3) After proposed regulations respecting a product have been published under paragraph (2), the Administrator shall, unless in his judgment noise emission standards are not feasible for such product, prescribe regulations, meeting the requirements of subsection (c), for such product—

(A) not earlier than six months after publication of such proposed regulations, and

(B) not later than—

(i) twenty-four months after the date of enactment of this Act, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 5(b)(1) identifying it (or a class of products of which it is a part) as a major source of noise.

(b) The Administrator may publish proposed regulations, meeting the requirements of subsection (c), for any product for which he is not required by subsection (a) to prescribe regulations but for which, in his judgulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d)(1) On and after the effective date of any regulation prescribed under subsection (a) or (b) of this section, the manufacturer of each new product to which such regulation applies shall warrant to the ultimate purchaser and each subsequent purchaser that such product is designed, built, and equipped so as to conform at the time of sale with such regulation.

(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act.

(e)(1) No State or political subdivision thereof may adopt or enforce—

"SEC. 611. (a) For purposes of this section:

"(1) The term 'FAA' means Administrator of the Federal Aviation Administration.

"(2) The term 'EPA' means the Administrator of the Environmental Protection Agency.

"(b)(1) In order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that safety in air commerce or air transportation requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

"(2) The FAA shall not issue an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d).

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"(c)(1) Not earlier than the date of submission of the report required by section 7(a) of the Noise Control Act of 1972, EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as EPA determines is necessary to protect the public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentations of data, views, and arguments. Within a reasonable time after the conclusion of such hearing and after consultation with EPA, the FAA shall—

"(A) in accordance with subsection (b), prescribe regulations (i) substantially as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or

"(B) publish in the Federal Register a notice that it is not prescribing any regulation in response to EPA's submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations.

"(2) If EPA has reason to believe that the FAA's action with respect to a regulation proposed by EPA under paragraph (1)(A)(ii) or (1)(B) of this subsection does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations listed in subsection (d) of this section, EPA shall consult with the FAA and may request the FAA to review,

"(d) In prescribing and amending standards and regulations under this section, the FAA shall—

"(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

"(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

"(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

"(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

"(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

"(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control of abatement of aircraft noise or sonic boom and the public health and welfare do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation."

(c) All—

(1) standards, rules, and regulations prescribed under section 611 of the Federal Aviation Act of 1958, and

(2) exemptions, granted under any provision of the Federal Aviation Act of 1958,

regulations to carry out the provisions of this Act with respect to new products imported or offered for importation.

PROHIBITED ACTS

SEC. 10. (a) Except as otherwise provided in subsection (b), the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 6 which is applicable to such product, except in conformity with such regulation.

(2)(A) The removal or rendering inoperative by any person, other than for purpose of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 6, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 8(b) (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 8(b), prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 9 which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 11(d) or 13(a) or regulations prescribed under section 13(a), 17, or 18.

(b)(1) For the purpose of research, investigations, studies, demonstrations, or

and report to EPA on, the advisability of prescribing the regulation originally proposed by EPA. Any such request shall be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action of the FAA under paragraph (1) of this subsection; and shall specify whether (and where) such statements are available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

"(3) If, in the case of a matter described in paragraph (2) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA indicates that the proposed regulation originally submitted by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the action actually taken by the FAA in response to EPA's proposed regulations, and (B) EPA's proposed regulations.

with respect to such standards, rules, and regulations,

which are in effect on the date of the enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator of the Federal Aviation Administration in the exercise of any authority vested in him, by a court of competent jurisdiction, or by operation of law.

LABELING

SEC. 8. (a) The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

(b) For each product (or class thereof) designated under subsection (a) the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Sections 6(c)(2) shall apply to the prescribing of any regulation under this section.

(c) This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

IMPORTS

SEC. 9. The Secretary of the Treasury shall, in consultation with the Administrator, issue

training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

ENFORCEMENT

SEC. 11. (a) Any person who willfully or knowingly violates paragraph (1), (3), (5), or (6) of subsection (a) of section 10 of this Act shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(b) For the purpose of this section, each day of violation of any paragraph of section 10(a) shall constitute a separate violation of that section.

(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violation of section 10(a) of this Act.

(d)(1) Whenever any person is in violation of section 10(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

(2) Any order under this subsection shall

be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5 of the United States Code.

(e) The term "person," as used in this section, does not include a department, agency, or instrumentality of the United States.

CITIZEN SUITS

SEC. 12. (a) Except as provided in subsection (b), any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e)), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation issued under section 17 or 18 of this Act or under section 611 of the Federal Aviation Act of 1958.

RECORDS, REPORTS, AND INFORMATION

SEC. 13. (a) Each manufacturer of a product to which regulations under section 6 or section 8 apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act.

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b)(1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this Act.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(c) Any person who knowingly makes any false statement, representation, or certifica-

(B) preparation of model State or local legislation for noise control.

(3) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

SEC. 15. (a) For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 6 at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b)(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a

Administrator in the case of a violation of a noise control requirement under such section 611) and (ii) to any alleged violator of such requirement, or

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or

(2) under subsection (a) (2) prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

(c) In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may interview as a matter of right. In an action under this section respecting a noise control requirement under section 611 of the Federal Aviation Act of 1958, the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(f) For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 10(a), or a standard, rule, or regulation

tion in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

RESEARCH, TECHNICAL ASSISTANCE, AND PUBLIC INFORMATION

SEC. 14. In furtherance of his responsibilities under this Act and to complement, as necessary, the noise-research programs of other Federal agencies, the Administrator is authorized to:

(1) Conduct research, and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

(A) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(C) determination of the most effective and practicable means of controlling noise emission.

(2) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including but not limited to—

(A) advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents

from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reason therefor.

(c)(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall

the District of Columbia Circuit, and a petition for review of action of the Administrator of the Federal Aviation Administration in promulgating any standard or regulation under section 611 of the Federal Aviation Act of 1958 may be filed only in such court. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of either Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(b) If a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator of such Agency or Administration (as the case may be), the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before such Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. Such Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(c) With respect to relief pending review of an action by either Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

(d) For the purpose of obtaining informa-

Act, the Administrator shall promulgate final regulations. Such regulations may be revised, from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

(c)(1) Subject to paragraph (2) but notwithstanding any other provisions of this Act, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad, no State or political subdivision thereof may adopt or enforce any standard applicable to noise emissions resulting from the operation of the same equipment or facility of such carrier unless such standard is identical to a standard applicable to noise emissions re-

give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this Act.

JUDICIAL REVIEW; WITNESSES

SEC. 16. (a) A petition for review of action of the Administrator of the Environmental Protection Agency in promulgating any standard or regulation under section 6, 17, or 18 of this Act or any labeling regulation under section 8 of this Act may be filed only in the United States Court of Appeals for

tion to carry out this Act, the Administrator of the Environmental Protection Agency may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

RAILROAD NOISE EMISSION STANDARDS

SEC. 17. (a) (1) Within nine months after the date of enactment of this Act, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 6 of this Act.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this

sulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restrict is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) The terms "carrier" and "railroad" as used in this section shall have the same meaning as such terms have under the first section of the Act of February 17, 1911 (45 U.S.C. 22).

MOTOR CARRIER NOISE EMISSION STANDARDS

SEC. 18. (a) (1) Within nine months after the date of enactment of this Act, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 6 of this Act.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

(c)(1) Subject to paragraph (2) of this subsection but notwithstanding any other provision of this Act, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any motor carrier engaged in interstate commerce, no State or political subdivision thereof may adopt or enforce any standard applicable to the same operation of such motor carrier, unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in his section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or

June 30, 1975, for $12 million in the amended bill?

Mr. STAGGERS. May I assure the gentleman from Missouri that if they do not, they should, because that is our intent.

Mr. HALL. The gentleman's statement that they should is not good enough.

The SPEAKER pro tempore. The Clerk will read the section which the gentleman from Missouri (Mr. HALL) has called attention to.

The Clerk read as follows:

Section 19. There are authorized to be appropriated to carry out this Act (other than section 15) $3 million for the fiscal year ending June 30, 1973; $6 million for the fiscal year ending June 30, 1974; and $12 million for the fiscal year ending June 3, 1975.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

A motion to reconsider was laid on the table.

CONTROL OF NOISE EMISSIONS

Mr. ROGERS. Mr. Speaker, I rise in full support of the House amendment to the Senate amendment to H.R. 11021, which has as its purpose the control of comprehensive range of regulations designed to abate aircraft noise. The FAA, in turn, must respond to the EPA proposals quickly and substantively.

Mr. Speaker, many people feel that noise pollution is the last remaining gap in environmental law. The Congress has, in recent years, responded to our many-faceted environmental problems with legislation to all known forms of environmental pollution except noises. This amendment insures that unlike air and water pollution, the excesses of noise pollution do not become so prevalent as to literally threaten the destruction of the environment.

Mr. Speaker, I urge unanimous adoption of the amendment.

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movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(4) For purposes of this section, the term "motor carrier" includes 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 by paragraphs (14), (15), and (17) of section 203(a) of the Interstate Commerce Act (49 U.S.C. 303(a)).

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated to carry out this Act (other than section 15) $3,000,000 for the fiscal year ending June 30, 1973; $6,000,000 for the fiscal year ending June 30, 1974; and $12,000,000 for the fiscal year ending June 30, 1975.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, reserving the right to object, may I be assured that the amendment at the desk is the same which I hold in my hand?

Mr. STAGGERS. Absolutely.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, reserving the right to object, does the Clerk's copy show the dates as June 30, 1973, for $3 million; June 30, 1974, for $6 million; noise emissions detrimental to the human environment. I and other members of the Subcommittee on Public Health and Environment, have thoroughly reviewed this amendment. The amendment retains all principles contained in the House bill and adds certain provisions found in the Senate amendment which we feel clarify and enhance the position of the House. In my opinion, this amendment insures that all interested parties—regulatory agencies, industry, and the public—will bring together their special qualities to free the American people from the noise pollution which jeopardizes their health and welfare.

Mr. Speaker, the principal difference between the House bill and the Senate amendment was with respect to aircraft noise. The House bill left control of aircraft noise in the hands of the FAA while the Senate gave substantial control to EPA. The amendment before the House today combines the best of both. It retains the existing law's provision which provides the FAA with ultimate authority to prescribe standards to regulate aircraft noise. This is necessary to insure that noise control standards will, through the benefit of FAA's expertise, be consistent with the highest degree of aircraft safety.

However, recognizing that it is the overall responsibility of EPA to insure a sound environment, the amendment provides that EPA play a significant role in the development of aircraft noise standards. This role includes the requirement that EPA propose to FAA a broad and

1.4a(3)(e) Oct. 18: Senate concurred in House amendment, pp. S18638–S18646

NOISE CONTROL ACT OF 1972

Mr. TUNNEY. Mr. President, I ask that the pending business be temporarily laid aside so that I may ask the Chair to lay before the Senate the message from the House of Representatives on H.R. 11021.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes, which was in lieu of the matter proposed to be inserted by the Senate amendment, insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Noise Control Act of 1972".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual, corporation, partnership, or association, and (except as provided in sections 11(e) and 12(a)) includes any officer, employee, department, agency, or instrumentality of the

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United States, a State, or any political subdivision of a State.

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act of 1958; or

(B) (i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 6 or section 8 which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products.

(7) the term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

products referred to in section 3(3)(B) of this Act, may be granted from the requirements of sections 6, 17, and 18 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c)(1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time as the Administrator specifies in the request, but such

sultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act.

(c) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports, published under this section.

(d) Any report (or revision thereof) under subsection (b)(1) identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or information on control techniques shall be announced in the Federal Register, and copies shall be made available to the general public.

NOISE EMISSION STANDARDS FOR PRODUCTS DISTRIBUTED IN COMMERCE

SEC. 6. (a)(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c), for each product—

(A) which is identified (or is part of a class identified) in any report published under section 5(b)(1) as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

(i) Construction equipment.

(ii) Transportation equipment including recreational vehicles and related equipment).

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

(2)(A) Initial proposed regulations un-

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Service.

(11) The term "environmental noise" means the intensity, duration, and the character of sounds from all sources.

FEDERAL PROGRAMS

SEC. 4. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 2(b).

(b) Each department agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) having jurisdiction over any property or facility, or

(2) engaged in any activity resulting, or which may result, in the emission of noise, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 611 of the Federal Aviation Act of 1958 (as amended by section 7 of this Act) shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise.

IDENTIFICATION OF MAJOR NOISE SOURCES; NOISE CRITERIA AND CONTROL TECHNOLOGY

SEC. 5. (a)(1) The Administrator shall, after consultation with appropriate Federal agencies and within nine months of the date of the enactment of this Act, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(2) The Administrator shall, after consultation with appropriate Federal agencies and within twelve months of the date of the enactment of this Act, publish information on the levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

(b) The Administrator shall, after consider paragraph (1) shall be published not later than eighteen months after the date of enactment of this Act, and shall apply to any product described in paragraph (1) which is identified (or is a part of a class identified) as a major source of noise in any report published under section 5(b)(1) on or before the date of publication of such initial proposed regulations.

(B) In the case of any product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 5(b)(1) after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) for such product shall be proposed and published by the Administrator not later than eighteen months after such report is published.

(3) After proposed regulations respecting a product have been published under paragraph (2), the Administrator shall, unless in his judgment noise emission standards are not feasible for such product, prescribe regulations, meeting the requirements of subsection (c), for such product—

(A) not earlier than six months after publication of such proposed regulations, and

(B) not later than—

(i) twenty-four months after the date of enactment of this Act, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 5(b)(1) identifying it (or a class of products of which it is a part) as a major source of noise.

(b) The Administrator may publish proposed regulations, meeting the requirements of subsection (c), for any product for which he is not required by subsection (a) to prescribe regulations but for which, in his judgment, noise emission standards are feasible

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and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c), for such product.

(c)(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 5, is 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 the application of the best available technology, and the cost of compliance. In establishing such a standard for any product, the Administrator shall give appropriate consideration to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966, the Clean Air Act, and the Federal Water Pollution Control Act. Any such noise emission standards shall be a performance standard. In addition, any regulation under subsection (a) or (b) (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to participate in rulemaking in accordance with the first sentence of section 553(c) of title 5, United States Code.

(3) The Administrator may revise any regulation which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Subject to sections 17 and 18, nothing in this section precludes or denies the right of any State or political subdivision thereof to establish and enforce controls on environmental noise (or one or more sources thereof) through the licensing regulation, or restriction of the use, operation, or movement of any product or combination of products.

AIRCRAFT NOISE STANDARDS

SEC. 7. (a) The Administrator, after consultation with appropriate Federal, State, and local agencies and interested persons, shall conduct a study of the (1) adequacy of Federal Aviation Administration flight and operational noise controls; (2) adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phaseout of existing aircraft; (3) implications of identifying and achieving levels of cumulative noise exposure around airports; and (4) additional measures available to airport operators and local governments to control aircraft noise. He shall report on such study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committees on Commerce and Public Works of the Senate within nine months after the date of the enactment of this Act.

(b) Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) is amended to read as follows:

"CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

(a) of the Noise Control Act of 1972, EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as EPA determines is necessary to protect the public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, which publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentations of data, views, and arguments. Within a reasonable time after the conclusion of such hearing and after consultation with EPA, the FAA shall—

"(A) in accordance with subsection (b), prescribe regulations (i) substanitally as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or

"(B) publish in the Federal Register a notice that it is not prescribing any regulation in response to EPA's submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations.

"(2) If EPA has reason to believe that the FAA's action with respect to a regulation proposed by EPA under paragraph (1)(A)(ii) or (1)(B) of this subsection does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations listed in subsection (d) of this section, EPA shall consult with the FAA and may request the FAA to review, and report to EPA on, the advisability of prescribing the regulation originally proposed by EPA. Any such request shall be

ulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d)(1) On and after the effective date of any regulation prescribed under subsection (a) or (b) of this section, the manufacturer of each new product to which such regulation applies shall warrant to the ultimate purchaser and each subsequent purchaser that such product is designed, built, and equipped so as to conform at the time of sale with such regulation.

(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act.

(e)(1) No State or political subdivision thereof may adopt or enforce—

(A) with respect to any new product for

"SEC. 611. (a) For purposes of this section:

"(1) The term 'FAA' means Administrator of the Federal Aviation Administration.

"(2) The term 'EPA' means the Administrator of the Environmental protection Agency.

"(b)(1) In order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment modification, suspension, or revocation of any certificate authorized by this title. No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that safety in air commerce or air transportation requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

"(2) The FAA shall not issue an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d).

"(c)(1) Not earlier than the date of submission of the report regained by section 7 published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action of the FAA under paragraph (1) of this subsection; and shall specify whether (and where) such statements are available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

"(3) If, in the case of a matter described in paragraph (2) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA indicates that the proposed regulation originally submitted by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the action actually taken by the FAA in response to EPA's proposed regulations, and (B) EPA's proposed regulations.

"(d) In prescribing and amending standards and regulations under this section, the FAA shall—

"(1) consider relevant available data relating to aircraft noise and sonic boom, in-

cluding the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

"(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

"(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

"(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

"(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

"(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation."

(c) All—

(1) standards, rules, and regulations prescribed under section 611 of the Federal Aviation Act of 1958, and

(2) exemptions, granted under any provision of the Federal Aviation Act of 1958, with respect to such standards, rules, and regulations,

which are in effect on the date of the enactment of this Act, shall continue in effect

PROHIBITED ACTS

SEC. 10. (a) Except as otherwise provided in subsection (b), the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 6 which is applicable to such product, except in conformity with such regulation.

(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 6, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 8(b) (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 8(b), prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 9 which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 11(d) or 13(a) or regulations prescribed under section 13(a), 17, or 18.

(b)(1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, for a hearing in accordance with section 554 of title 5 of the United States Code.

(e) The term "person", as used in this section, does not include a department, agency, or instrumentality of the United States.

CITIZENS SUITS

SEC. 12. (a) Except as provided in subsection (b), any person (other than the United States) may commence a civil action on his own behalf—

(1) against a ny person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e)), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator. The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise control requirement under such section 611) and (ii) to any alleged violator of such requirement, or

according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator of the Federal Aviation Administration in the exercise of any authority vested in him, by a court of competent jurisdiction, or by operation of law.

LABELING

SEC. 8. (a) The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise

(b) For each product (or class thereof) designated under subsection (a) the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Sections 6(c)(2) shall apply to the prescribing of any regulation under this section.

(c) This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

IMPORTS

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

the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

SEC. 11. (a) Any person who willfully or knowingly violates paragraph (1), (3), (5), or (6) of subsection (a) of section 10 of this Act shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(b) For the purpose of this section, each day of violation of any paragraph of section 10(a) shall constitute a separate violation of that section.

(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 10(a) of this Act.

(d)(1) Whenever any person is in violation of section 10(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

(2) Any order under this subsection shall be issued only after notice and opportunity

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or (2) under subsection (a)(2) prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

(c) In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may intervene as a matter of right. In an action under this section respecting a noise control requirement under section 611 of the Federal Aviation Act of 1958, the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(f) For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 10(a), or a standard, rule, or regulation issued under section 17 or 18 of this Act or under section 611 of the Federal Aviation Act of 1958.

RECORDS, REPORTS, AND INFORMATION

SEC. 13. (a) Each manufacturer of a product to which regulations under section 6 or section 8 apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act,

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b)(1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this Act.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(c) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inac-

DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

SEC. 15. (a) For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 6 at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b)(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National

for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

(c)(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) The procuring agency shall be required to purchase available certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-

curate any monitoring device or method required to be maintained under this Act, shall upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

RESEARCH, TECHNICAL ASSISTANCE, AND PUBLIC INFORMATION

SEC. 14. In furtherance of his responsibilities under this Act and to complement, as necessary, the noise-research programs of other Federal agencies, the Administrator is authorized to:

(1) Conduct research, and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

(A) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(C) determination of the most effective and practicable means of controlling noise emission.

(2) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including but not limited to—

(A) advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

(B) preparation of model State or local legislation for noise control.

(3) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5) (A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this Act.

JUDICIAL REVIEW; WITNESSES

SEC. 16. (a) A petition for review of action of the Administrator of the Environmental Protection Agency in promulgating any standard or regulation under section 6, 17, or 18 of this Act or any labeling regulation under section 8 of this Act may be filed only in the United States Court of Appeals for the District of Columbia Circuit, and a petition for review of action of the Administrator

of the Federal Aviation Administration in promulgating any standard or regulation under section 611 of the Federal Aviation Act of 1958 may be filed only in such court. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of either Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(b) If a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator of such Agency or Administration (as the case may be), the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before such Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. Such Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(c) With respect to relief pending review of an action by either Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

(d) For the purpose of obtaining information to carry out this Act, the Administrator of the Environmental Protection Agency may issue subpenas for the attendance and

from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

(c)(1) Subject to paragraph (2) but notwithstanding any other provision of this Act, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad, no State or political subdivision thereof may adopt or enforce any standard applicable to noise emissions resulting from the operation of the same equipment or facility of such carrier unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transpor-

be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

(c)(1) Subject to paragraph (2) of this subsection but notwithstanding any other provision of this Act, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any motor carrier engaged in interstate commerce, no State or political subdivision thereof may adopt or enforce any standard applicable to the same operation of such motor carrier, unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transpor-

testimony of witnesses and the production of relevant papers, books, and ducuments, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

RAILROAD NOISE EMISSION STANDARDS

SEC. 17. (a)(1) Within nine months after the date of enactment of this Act, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 6 of this Act.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised, ish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) The terms "carrier" and "railroad" as used in this section shall have the same meaning as such terms have under the first section of the Act of February 17, 1911 (45 U.S.C. 22).

MOTOR CARRIER NOISE EMISSION STANDARDS

SEC. 18. (a)(1) Within nine months after the date of enactment of this Act, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 6 of this Act.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall tation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

(d) For purposes of this section, the term "motor carrier" includes 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 by paragraphs (14), (15), and (17) of section 203(a) of 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 section 15) $3,000,000 for the fiscal year ending June 30, 1973; $6,000,000 for the fiscal year ending June 30, 1974; and $12,000,000 for the fiscal year ending June 30, 1975.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. MAGNUSON. Mr. President, I do not want to delay this matter. This is a bill that was nearly as difficult as the one the Senator from Louisiana has, though not quite. But I want to suggest that, between the Commerce Commitee and the Public Works Committee, we finally worked out a very decent bill.

Mr. TUNNEY. That is correct.

Mr. MAGNUSON. It took a lot of work, and I rise only to compliment the staff members on both the Commerce Committee and the Public Works Committee on helping us, in these busy days, to work out what I think is a reasonable compromise.

Mr. TUNNEY. I thank the Senator from Washington for what he has said.

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I think that the staffs of both committees and personal staff have done an outstanding job.

Mr. MAGNUSON. Of course, we supervised them a little.

Mr. TUNNEY. I want to say that if it had not been for the Senator from Washington, we could never have gotten this bill through the Senate. I deeply appreciate the fact that he was willing to meet with me on many occasions to discuss the various provisions of the bill, and that we were able to work out this agreement, which I think will be satisfactory to the standing committees and also most beneficial to millions of Americans who desperately need this legislation in order to control the noise that comes from so many different products throughout the United States.

I also would like to say that I am appreciative to the chairman of the House Commerce Committee for the work he did in these final days when it appeared that an objection on the other side would ground this bill this year. Through the diligence and the work of the House minority leader (Mr. FORD), and through the efforts of our majority leader, the Senator from Montana (Mr. MANSFIELD), this bill is before us at this time with about as much agreement as is possible in any legislation.

Mr. President, on February 29 of this year, the House passed and sent to the Senate the Noise Control Act of 1972. After months of hearings, negotiations and extensive investigations, the Senate on Friday of last week returned its tougher version of this legislation to the House.

Time did not permit a conference between the two Houses, and the House has now accepted the Senate version of the bill. Basically, the Senate bill would require the Environmental Protection Agency to establish noise emission standards for products distributed in interstate commerce. The Agency would retain the authority to initiate a regulatory process to protect public health and welfare from aircraft noise. The EPA would be required to conclude within 9 months a study on aircraft noise problems, including the implications and means of achieving levels of cumulative noise around airports and the adequacy of existing noise emission standards and operational controls and a study of the impact of aircraft noise on public health and welfare. Subsequent to that study the Administrator would be required to take the lead on the control of aircraft noise, submitting regulations to protect public health and welfare from aircraft noise and sonic boom. Such regulations would be required to include proposed means of reducing noise in airport environments through the application of emission controls on aircraft, the regulation of flight patterns and aircraft and airport operations, and modifications in the number, frequency, or scheduling of flights.

Within 30 days, the Administrator of the Federal Aviation Administration would be required to publish the EPA-proposed regulations as its notice of proposed rulemaking and, within 60 days, to hold a public hearing on the EPA proposal. On the basis of that hearing and after consultation with the EPA, the FAA must publicly accept, modify, or reject the regulations contained in the EPA proposal. The FAA Administrator would be required, as the result of the hearing process and after consultation with EPA to prescribe regulations to implement the proposed or modified recommendations.

Again, I stress that those regulations against that goal, not for their effect on air commerce or particular air carriers.

The key element in this proposal is protection of the public health and welfare. The key element is not, as some may believe, protection of commerce. The Federal Aviation Administration's regulatory responsibility is retained in order to assure technological availability and protect safety. However the FAA, following the lead of EPA, will be required to promulgate regulations which shall assure protection of public health and welfare in airport environments even where it is not possible to achieve necessary noise reductions through the application of specific emission controls on engines and aircraft.

The amendment offered by Senator BROOKE, requiring a study by the Secretary of Transportation of means of financing the retrofitting of existing aircraft, is deleted by the House amendment. However, the question of cost and means of financing will be a part of the study and recommendations on a retrofit program which the Environmental Protection Agency is required to conduct under section 7(a). The Congress expects that the Department of Transportation, which is conducting a study now on retrofitting of existing aircraft and means of financing such a program, will complete its study in time for the EPA to utilize the data, along with other sources, as it prepares its recommendations on retrofitting and the financing thereof.

I wish to point out that the decisions of the Administrator of the Federal Aviation Administration in accepting, modifying, or rejecting the proposals of the

tween the two bodies on the disagreements in the legislation. The House has exercised its prerogative and amended the Senate version of the bill. That legislation is before the Senate.

Mr. President, the key provisions of the legislation have been retained in modified form. Both the Senate and the House were most concerned with the problem of aircraft noise and, more specifically, with the need to protect public health and welfare in the vicinity of airports from the impact of noise from aircraft and aircraft operations. The House bill provided the Federal Aviation Administration with sole responsibility for regulation of aircraft-related noise problems. The Environmental Protection Agency, an agency established with the approval of the Congress to protect the environment, was relegated to a secondary, consultative role to the Federal Aviation Administration.

Under the Senate bill, the Environmental Protection Agency had the responsibility to propose noise emission standards for aircraft. Those standards were to reflect the degree of noise reduction from aircraft required to protect the public health and welfare. However, under the Senate bill, those standards could only be applied after determination by the Federal Aviation Administration that technology is available and application of the standards would be consistent with air safety requirements.

Under the amendment as proposed by the House, which we are now asked to approve, the Environmental Protection would include, but would not be limited to, the imposition of curfews on noisy airports, the imposition of flight path alterations in areas where noise was a problem, the imposition of noise emission standards on new and existing aircraft—with the expectation of a retrofit schedule to abate noise emissions from existing aircraft—the imposition of controls to increase the load factor on commercial flights, or other reductions in the joint use of airports, and such other procedures as may be determined useful and necessary to protect public health and welfare.

Mr. President, the rest of this amendment is similar to portions of the aircraft provision passed by the House. But the essence of the Senate proposal has been retained, in establishing EPA as the lead agency with respect to aircraft noise and in not relying solely on controls on noise emissions from aircraft. Under the compromise both a technological response in the form of emission standards and a regulatory procedure in the form of operational and other airport noise controls must be established.

It is not the intention of the Congress that the phrase "economic reasonableness" continue to be interpreted as it has in the past under section 611 of the Federal Aviation Act. By recasting the control of aircraft noise in a new regulatory framework, Congress intends that the reasonableness of the cost of any regulation or standard be judged in relation to the purposes of this act, which is to protect public health and welfare from aircraft noise. Costs are to be judged Environmental Protection Agency, or in promulgating regulations or standards for the control of aircraft noise, are subject to judicial review under section 16 of the bill before us. In addition, under the citizen suit provision of this bill—section 12—any individual can bring suit against the Administrator of the Federal Aviation Administration for failure to perform an act or duty which is not discretionary with him. This includes the mandate to him to establish standards for the control of aircraft noise in accordance with specific standards and policies under this act. In such a case, the test of the Administrator's action is not whether the action taken is arbitrary or capricious, but whether it is consistent with the express requirements of the act, such as the protection of the public health and welfare.

Mr. President, the House amendment does not contain the provision offered by Senator Cranston which would require supersonic transports landing at U.S. airports to meet the noise emission standards which have been established for subsonic aircraft. This provision, although it was adopted by a substantial rollcall vote in the Senate, was not acceptable to the House in the negotiations which led to the passage of the House amendment.

Members of the House insisted that hearings had not been held on this matter or on the provisions of the Senate-passed bill forbidding flights of civil aircraft over the U.S. at supersonic speeds. In addition, it was stated emphatically that acceptance of these provisions would

disturb jurisdictional arrangements in the House of Representatives. Therefore, although the Senate strongly urged the inclusion of these provisions because of their importance to the total program of controlling aircraft noise, these provisions could not be offered in or accepted by the House, and the passage of noise control legislation would have been blocked.

We expect, however, that the Environmental Protection Agency, in studying and proposing noise emission standards for new aircraft and new aircraft types, and the Federal Aviation Administration in promulgating and implementing such regulations, will impose limits on noise emissions on supersonic aircraft using U.S. airports at least as stringent as are required of subsonic aircraft. It is my expectation and the Senate's clear intention that such standards be proposed and implemented for supersonic transports under the provisions of this bill before such aircraft are in commercial service. Such standards, including proposed restrictions on use of U.S. airports, should be recommended in the study under section 7(a).

The House amendment does not include three specific provisions of the Senate bill. The House has deleted the provision for grants to States and local governments for the support of environmental noise control programs. While the Senate felt it was important to assist communities and States in the development of effective regulatory programs, and it is unfortunate that the House chose to drop this provision, I believe that the Senate will have an ample opportunity to reconsider this matter in developing entirely new provisions reflecting an accommodation between the House and Senate bills, the House amendment provides for a number of amendments drawn from the Senate bill and based on the Clean Air Amendments of 1970. The use of these precedents from the Clean Air Act should be valuable not only for consistency in environmental law and ease of interpretation and implementation but to expedite approval of this legislation in both the Senate and the House.

The following provisions have been included in the House amendment in modified form in order to reflect similar provisions of the Senate bill:

A Federal facilities compliance provision identical to the Clean Air Act;

A warranty requirement similar to the Clean Air Act;

An enforcement provision similar to the Clean Air Act;

A citizen suit provision identical to the Clean Air Act;

A records and reports provision similar to the Clean Air Act;

A judicial review provision identical to the Clean Air Act.

Finally, Mr. President, the House amendment includes three provisions of the Senate bill which were not a part of the House bill and which expand the scope of the legislation in the direction approved by the Senate. The Senate bill required the Administrator to publish criteria on the levels of environmental noise at which adverse effects of public health and welfare can be avoided, with an adequate margin of safety. The House has adopted an amendment which requires the Administrator to consider not only the situation but he must also design his regulations so that the public health and welfare is protected regardless of the location in which the interstate carrier is operating.

The Administrator is permitted to take into account special local considerations and waive the application of the preemption provision to assure that public health and welfare is protected. In addition, he may waive the application of preemption where local regulations are not in conflict with Federal regulations, as where local law requires lower speeds or different operating procedures, or modifications of routing.

Mr. President, both the House and the Senate bill provided authority for the Administrator of the Environmental Protection Agency to establish noise emission standards for products. In general it is assumed the Administrator will deal with products which contribute to noise in the environment, as distinguished from household products. This is not to say that the Administrator cannot regulate air conditioners. However, it is the intent of the Congress that priorities established by the Administrator would be directed toward such items as trucks, snowmobiles, motorcycles, compressors, and construction equipment, rather than blenders, electric can openers, and vacuum cleaners although standards could cover these items. The Administrator's assignment is particularly difficult. Not only must the Administrator determine the level of noise emissions from a product which will assure that such a product in use alone, under varying conditions, will not contribute to unacceptable en-

portunity following the completion of the various studies, research and reports of this legislation to add such a program. I do not, however, want to understate the importance of a Federal program to assist in the development of State and local environmental noise control agencies. Both the Federal Water Pollution Control Act and the Clean Air Act have achieved a high degree of success because of the efforts of State and local governments to regulate environmental problems. The need for and the value of this type of approach in the area of environmental noise should become more apparent after the completion of studies to develop noise criteria and control technology information, and especially, information on levels of environmental noise. Such information will establish a local basis for action on what is essentially a local problem, and identify the regulatory mechanisms which may be most appropriate to assure early achievement of acceptable levels of environmental noise.

Two additional provisions related to Federal procurement and emergency situations were deleted in the House amendment. The Senate Committee on Public Works will review the need for and the value of those provisions at the same time it considers grants to State and local governments, and if found useful and appropriate, the committee will recommend necessary amendments to the Senate.

Mr. President, in order to facilitate agreement and to avoid the difficulty of quires the Administrator to develop and publish information identifying such levels. Information on levels of environmental noise at which adverse effects occur will be of valuable assistance to the public and to Federal, State, and local regulatory agencies in determining the degree to which noise in the environment needs to be reduced. It will be essential to the Environmental Protection Agency and to the Federal Aviation Administration and to citizens who live in the vicinity of the airports who are concerned about the levels of environmental noise. And it will be essential to those who enforce regulatory programs as a means to determine the success of their regulatory programs.

Second, the House has accepted the Senate proposal which authorizes the Environmental Protection Agency to establish regulations for control of noise from interstate carriers, including railroads, trucks and buses. The purpose of the amendment is to reduce the impact of conflicting State and local noise controls on interstate carriers.

I would stress, Mr. President, that the preemption provided in these sections only occurs in areas of regulation where adequate Federal regulations are in effect. And, equally important, Mr. President, is that Federal regulations must be stringent enough to meet the varying local conditions affected by interstate carriers. Not only must the Administrator establish regulations which protect public health and welfare from noise from these interstate carriers in the average vironmental noise levels, but he must also be assured that noise emission standards for a product will be adequate to protect public health and welfare when that product is used in combination with other products or sources of noise.

Thus, the noise emission standards for snowmobiles or motorcycles will not be related solely to one snowmobile or motorcycle in an area where there are no other snowmobiles or motorcycles but should anticipate the circumstances in which many sources might be present. This will necessitate standards for an individual source of noise which are considerably more stringent than might be required if that product were always to be used alone.

Additionally, the Administrator will be required to take into consideration the technology that is available to reduce noise. The Senate established its regulatory mechanism based on what could be achieved through the application of the best available technology. The Senate bill assumed that the best technology available would probably not be adequate to assure protection of public health and welfare and thus that the levels of noise reduction which could be achieved with technology would be the minimum level of control. Under the House amendment, the application of the best available technology remains the minimum standard, by providing for the establishment of standards based on both public health and welfare and the technology available for noise reduction. The

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Administrator will have an opportunity to assure that the best which can be done is done, while at the same time pushing the limits of technology to achieve greater noise emission control results protective of public health and welfare.

Mr. President, the funds authorized by the House amendment for the administration of this legislation are less than those contained in the Senate bill. Agreement to this reduction was necessary. However, authorizations in later years can be increased if conditions so require.

In conclusion, Mr. President, the House amendment now before us retains the essential features of the Senate bill, and retains the strong features of the legislation overwhelmingly passed by the Senate on October 13, 1972.

Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

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