

**Released**  
11-9-77

**DOCUMENT RESUME**

04012 - [B3114373]

[Progress Made by Federal Agencies in Implementing the Noise Control Act of 1972]. CPD-78-5; B-166506. November 7, 1977. Released November 9, 1977. 2 pp. + enclosure (6 pp.).

Report to Rep. Fred. B. Rooney, Chairman, House Committee on Interstate and Foreign Commerce; Transportation and Commerce Subcommittee; by Robert F. Keller, Acting Comptroller General.

Issue Area: Environmental Protection Programs: Effectiveness of Regulatory Strategies (2208).

Contact: Community and Economic Development Div.

Budget Function: Natural Resources, Environment, and Energy: Pollution Control and Abatement (304).

Organization Concerned: Department of Transportation; Environmental Protection Agency; Federal Aviation Administration.

Congressional Relevance: House Committee on Interstate and Foreign Commerce; Transportation and Commerce Subcommittee.

Authority: Noise Control Act of 1972 (42 U.S.C. 4901).

There has been progress in the Federal Government's noise abatement program since April 1977. The most important action taken since then was the issuance by the Environmental Protection Agency (EPA) of a strategy document for the Federal noise control program. This document is a first step in the development of a unified, national effort to reduce noise pollution. The comments on the strategy received from other Government agencies, State and local governments, private industry, and the public were generally in agreement with the issues discussed in the strategy. Findings/Conclusions: Although numerous regulatory measures are available to control noise, many of them have not been utilized to their full potential, including technical assistance to State and local governments, coordination of the numerous Federal programs concerning noise control, and the labeling of noisy products. The progress made in the coordination of Federal research and in development of labeling regulations has been significant. A major reorganization plan announced by the Secretary of Transportation will, when implemented, eliminate the Office of Noise Abatement within the Office of the Secretary and transfer noise control activities to the various operating administrations. It is too soon to determine what effect this reorganization will have on noise abatement activities in the overall transportation area. There are still significant differences between EPA and the Federal Aviation Administration with regard to aviation noise control which will continue until Congress clarifies its intent under the Noise Control Act. (SC)



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-166506

NOV 7 1977

RESTRICTED  
Access  
By the

to the General  
Approval

The Honorable Fred B. Rooney  
Chairman, Subcommittee on  
Transportation and Commerce  
Committee on Interstate and  
Foreign Commerce  
House of Representatives

Dear Mr. Chairman:

You requested in your April 28, 1977, letter that we continue to monitor the progress made by the Federal agencies in implementing the Noise Control Act of 1972, and provide you with quarterly reports. You also requested the two major agencies involved--the Department of Transportation and the Environmental Protection Agency--to provide you with quarterly reports on their progress.

The Environmental Protection Agency (EPA) sent its first report to you on July 8, 1977. The Department of Transportation (DOT) sent its report on September 16, 1977. As requested by your office, our report was delayed until the agencies' reports could be analyzed by us.

In general, there has been progress in the Federal Government's noise abatement program since the hearings before your Subcommittee in April 1977. That does not mean, however, that the program is yet running effectively. Some of the previous problems have been alleviated, such as the issuance of a noise strategy, while others, like the disagreement between EPA and DOT on aircraft noise continues. A new problem concerning railroad noise has emerged as a result of recent court action and future problems could be in the works as DOT abolishes its central noise abatement office and EPA faces funding cuts in its noise program. Details on these matters are contained in the enclosure to this letter.

We met with DOT and EPA officials and have recognized their comments to the extent appropriate in finalizing our report.

CED-78-5  
(087500)

As arranged with your office, we will make this report available to the Department of Transportation and the Environmental Protection Agency two days after the issue date

Sincerely yours,

  
ACTING Comptroller General  
of the United States

Enclosure

FIRST PROGRESS REPORT  
ON IMPLEMENTATION OF  
THE NOISE CONTROL ACT OF 1972

The objectives of the Noise Control Act of 1972 (42 U.S.C. 4901)--the first comprehensive noise control legislation passed by Congress--are to "promote an environment for all Americans free from noise that jeopardizes their health or welfare" and "to establish a means for effective coordination of Federal research and activities in noise control." The act directs the Administrator of the Environmental Protection Agency (EPA) to coordinate all Federal programs of noise research and control, identify and promulgate standards for major sources of noise, submit regulatory proposals to the Federal Aviation Administration (FAA) for control of aircraft/airport noise, label noisy products, conduct and finance research on the effects of noise, and propose regulations limiting the noise generated from interstate rail and motor carriers.

In our report to the Congress dated March 7, 1977, (CED-77-42) titled "Noise Pollution--Federal Program to Control It Has Been Slow and Ineffective," we stated that although some progress has been made in fulfilling the requirements of the Noise Act, implementation of many of the provisions has been slow and, in some cases, ineffective. Some of the problems discussed in our report and in testimony before the House Interstate and Foreign Commerce's Subcommittee on Transportation and Commerce on April 19, 1977, as well as the House Government Operation's Subcommittee on Environment, Energy, and Natural Resources on April 4, 1977, were as follows:

- Only four noise emission standards had been issued and these were from one to two years late.
- EPA had submitted 11 proposals to the FAA for control of aircraft/airport noise, but little progress had been made in issuing these regulations.
- While EPA recognized early in 1974 that a strategy for a comprehensive noise program was needed, a final version of such a strategy had not been published.
- Little progress had been achieved in labeling noisy products.
- The total noise research program of the Government had decreased since the act was passed.
- EPA had failed to effectively coordinate Federal noise research activities.

--EPA had not adequately assessed the status of Federal noise research as required by the act.

As a result of the hearings held by the House Interstate and Foreign Commerce's Subcommittee on Transportation and Commerce, the Subcommittee Chairman requested us to continue monitoring the progress made by EPA and the other Federal agencies responsible for implementing the Federal Government's noise program.

#### RECENT PROGRESS

There has been progress in the Federal Government's noise abatement program since April 1977. Much of the progress has been previously reported to the Subcommittee by the Department of Transportation (DOT) and EPA in their status reports. Rather than discuss or reiterate the information provided in the two agencies' first reports, we will address only the most significant actions or areas which we feel need improvement or would be of concern to the Subcommittee.

In our opinion, the most important action taken since April 1977, was the issuance by EPA of a strategy document for the Federal noise control program. This is essential if the intent of the Congress under the Noise Control Act is to be completed. The strategy document, approved by the EPA Administrator on May 26, 1977, is a good first step in the development of a unified, national effort to reduce noise pollution. The comments on the strategy received from other government agencies, State and local governments, private industry, and the public were generally in agreement with the issues discussed in the strategy.

As stated in the strategy document prepared by EPA, numerous regulatory measures are available to control noise, but many of them have not yet been utilized to their full potential. Areas not previously utilized but which are given priority in the strategy document are technical assistance to State and local governments, coordination of the numerous Federal programs concerning noise control, and the labeling of noisy products.

The progress made in two of the major areas--coordination of Federal research and development of labeling regulations--has been significant.

--The four research panels established by EPA to coordinate Federal research efforts, which were previously inactive

for almost two years, have been meeting on a regular basis and one of their major projects is to assess the noise research done to date by the Federal Government.

This assessment of the effectiveness of the Federal Government's noise research efforts was required by the act. The EPA assessment report submitted to Congress in June 1975 was not adequate. In our March 1977 report we concluded that the assessment of research is necessary to make sure the accomplishments and areas needing improvement in the Federal effort are known. EPA officials told us the research panels will meet in November and December of this year to finalize plans for the publication of a revised assessment of the Federal noise research effort.

--On June 22, 1977, EPA proposed its first labeling regulation in the Federal Register. This proposal covered hearing protectors. Also, the general provisions for product labeling were published on the same date. Public meetings were held on these general provisions in three cities: Washington, D.C.; Cedar Rapids, Iowa; and San Francisco, California. According to an EPA official the general feeling of the public and State and local governments towards the labeling program was favorable. No additional proposed regulations have been published, however, EPA plans to propose labeling regulations for other products in 1978.

#### DEPARTMENT OF TRANSPORTATION REORGANIZATION

On July 20, 1977, the DOT Secretary announced a major reorganization plan which when implemented will eliminate the Office of Noise Abatement within the Office of the Secretary, DOT. The missions and functions of this office will be transferred to the various operating Administrations within DOT (e.g. aircraft noise activities of the Secretary's Office of Noise Abatement will be transferred to the FAA). The DOT Secretary stated that the various operating administrations have developed the capability to administer the noise control activities of their respective areas of expertise. It is too soon to determine what effect, if any, this reorganization will have on noise abatement activities in the overall transportation area.

#### LEGISLATIVE CHANGES RECOMMENDED NOT YET DEVELOPED

In our report to the Congress on March 7, 1977, we recommended that the Noise Control Act of 1972 be amended to:

"Change the penalty for violating the interstate motor carrier regulation from a criminal to a civil penalty.

Require FAA to publish a notice in the Federal Register, within a specified time, as to whether the noise abatement proposals submitted by EPA will be accepted, modified, or rejected. If the proposals are to be modified or rejected, the reasons for such actions should also be stated."

To date, neither of these two legislative recommendations have been introduced as amendments.

#### PROBLEMS BETWEEN EPA AND DOT

In the EPA response to our report to the Congress EPA stated:

"...it would be appropriate for the Congress to explore the basic philosophic approaches of the two agencies (FAA and EPA) and to contrast the performance in the aviation area to the performance in other noise control areas set forth by the Act. In EPA's view the FAA's regulations under Section 7 of the Act require only 'current practice,' while the EPA's regulations under Section 5 require 'best available technology.' Since the specific criteria for establishing standards differ in the two Sections of the Act, perhaps the outcomes should also be different, but fundamental policy questions divide the two agencies and they will continue to delay progress in the aviation noise area until Congress clarifies its intent."

Based on our analysis of developments since that time, it appears to us that there are still significant differences between EPA and FAA and that the difference will continue until Congress clarifies its intent under the Noise Control Act of 1972.

As stated in our March 1977 report to the Congress, the Association of American Railroads had filed suit in the U.S. Court of Appeals for the District of Columbia Circuit requesting a judicial review of the interstate railroad regulation promulgated by EPA. The Association's petition requested the review because it did not feel the regulation adequately provided for national uniform treatment of the railroad industry.

On August 23, 1977, the Court ruled that EPA "misinterpreted the clear statutory mandate [Section 17 of the Noise

Act] to regulate the equipment and facilities of interstate rail carriers" and ordered EPA to revise the regulation by August 23, 1978.

Although the Court ruled that the present regulation will remain in effect, the new regulation which is to be developed must contain a broader definition of railroad equipment and facilities. The Court believes the definition of equipment and facilities used by EPA in the existing regulation was too narrow and therefore failed to meet the intent of Section 17 of the act. The Court also stated that three Federal agencies with expertise in the railroad area--Departments of Commerce, Transportation, and the Interstate Commerce Commission--also disagreed with EPA's decision not to regulate all equipment and facilities.

#### COORDINATION

Although the coordination aspects of the act appear to be improving with the continuing activity of the inter-agency research panels, a recent incident indicates that problems may still exist. Since DOT and the National Aeronautics and Space Administration (NASA) had performed various tests on the Concorde supersonic aircraft, several Congressmen, on August 4, 1977, requested DOT and NASA to assist in the development of a low-frequency vibration index for the Concorde. The Congressmen asked GAO to monitor these efforts.

Since DOT and NASA are members with EPA on two of the interagency research panels, it would appear appropriate for them to have contacted EPA for their opinion, since EPA had previously taken the position that additional low-frequency efforts were needed. However, EPA was not made aware of this activity until notified by GAO. Subsequently, EPA was included in this effort. This appears to be another indication of communication problems between the Federal agencies involved in noise control.

#### FUNDING

We understand that the EPA noise control program resources may be reduced substantially in fiscal year 1979. The agency budget request, which was developed under a zero-based budgeting process, was recently submitted to the Office of Management and Budget. Although EPA officials would not confirm the extent of any expected cuts, this reduction has been widely reported in various noise trade journals.



ENCLOSURE

ENCLOSURE

Since the EPA program is relatively small, any cutbacks could hamper its effectiveness, and since progress is currently being made, it appears to us that a cutback at this time would be detrimental to the Federal noise control effort.