



Sec 17 & 18

Senate and House Proceedings Omitted From the October 17, 1972, Issue Are Published in This Issue After Their Respective Proceedings of Today

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NOTICE

The last issue of the daily Congressional Record for the Ninety-second Congress will be published not later than November 8, 1972. Interim issues of the Record will be printed at the direction of the Joint Committee on Printing.

It is requested that copy and proofs of speeches withheld for revision, or Extensions of Remarks as authorized by either House, be submitted to the Government Printing Office or to the Congressional Record Clerk, Room H-112, Capitol. This office may be reached on extension 52100 up to 4:30 p.m.

This order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment.

No provision herein shall be construed to supersede the two-page limitation rule, reinstated on May 24, 1972.

By order of the Joint Committee on Printing.

WAYNE L. HAYS, Chairman.

The House met at 12 o'clock noon. The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Prove all things; hold fast that which is good.—1 Thessalonians 5: 21.
O Thou holy and merciful God, who seeks us when we go astray and who redeems us warmly when we return with the coming of a new day we would quietly lift our hearts unto Thee in prayer. For this day of Thy grace grant unto us courage, faith, and good will that in meeting the needs of our Nation we may fall man nor Thee.

Deliver us from bigotry and bitterness, from pettiness and prejudice. Keep us devoted to the higher values and greater virtues which give life meaning and purpose and which hold us steadfast in the struggle for freedom, justice, and peace in our world.

"God of justice, save our people
From the crash of race and creed.
From the strife of class and nation
Make our Nation free and good
Keep our faith in simple words,
Strong as when our forefathers
Till it finds its full fruition
In the brotherhood of man."

Again we pray for the safe return of our majority leader and our colleagues. May Thy peace and Thy comfort abide in all our hearts. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Armstrong, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16310) entitled "An act to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973."

The message also announced that the Senate had voted to override the Pres-

ident's veto of the bill (S. 2779) to amend the Federal Water Pollution Control Act.

The objection of the President notwithstanding.

The message also announced that the Senate recede from its amendments Nos. 3 and 4 to the amendment of the House of Representatives to the bill (S. 3558) entitled "An act to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes."

The message also announced that the Vice President, pursuant to Public Law 91-689, appointed Mr. Allott as an alternate delegate, on the part of the Senate, to the North Atlantic Assembly to be held in Bonn, Germany, November 13 to 24, 1972.

The message also announced that the Senate disagree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16310) entitled "An act to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973."

And that the Senate agrees to the amendment of the House of Representatives to the amendment of the Senate numbered 10, to the above-entitled bill, with an amendment.

And that the Senate further insist upon its amendments to the above-entitled bill and request a further conference with the House of Representatives on the disagreeing votes of the two Houses thereon and appoints Mr. Loya, Mr. Armstrong, Mr. Taketani, Mr. Bennett, and Mr. Jordan of Idaho to be the conferees on the part of the Senate.

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

Mr. STEVENS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1571) to control the growth of noise detrimental to the health, environment, and other purposes, with a Senate amendment, 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?

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 thereto, as it passed the House by a vote of 356 to 33 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 there 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.

APPOINTMENT OF CONFERRERS ON H.R. 16610, PUBLIC DEBT LIMIT

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 16310) to provide for a temporary increase in

the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. PICKLE. Mr. Speaker, reserving the right to object, I would ask the gentleman from Arkansas if this is the measure which also pertains to the extension of the unemployment benefits program.

Mr. MILLS of Arkansas. If the gentleman will yield, it does, Yes.

Mr. PICKLE. With great hesitation and reluctance, Mr. Speaker, I make the point of order that that portion of the bill is no germane.

The SPEAKER. The Chair will advise that this is a matter of disagreeing to the Senate amendments and that issue is not before the House at this time, so a point of order is not available at this time.

Mr. PICKLE. Then the same point of order may be reserved when it comes back from conference?

The SPEAKER. Perhaps.

Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. MILLS of Arkansas, ULLMAN, BURR of Massachusetts, Mrs. GRIFFITHS, Messrs. DYRLES of Wisconsin, and SCHNEIBEL.

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

Abbutt	Byron	Foley
Abernethy	Cabell	Ford
Aboresck	Callery	William D. Ford
Anderson	Carberry	Forester
Tenn.	Chappell	Frey
Andrews	Clark	Gallagher
N. Dak.	Clawson, Del.	Gallagher
Arcunio	Clay	Gettys
Archer	Cleveland	Glavin
Arend	Collier	Goldwater
Ashbrook	Collins, Ill.	Grass
Ashley	Collins, Tex.	Gray
Aspin	Cotter	Green, Oreg.
Badillo	Crane	Griffiths
Baker	Curtin	Gross
Baring	Danielson	Gubser
Beitch	Davis, S.C.	Hagan
Bell	Davis, Wis.	Haley
Beland	Delaney	Hanna
Betta	Delums	Hansen, Wash.
Beth	DeMunn	Leahy
Bishop	Derwinski	Hastings
Blackburn	Dickinson	Hebert
Blanton	Born	Heckler, Miss.
Boggs	Bow	Hills
Boling	Bradley	H. Har
Borah	Brayer	Hunt
Brouks	Brown	Richard
Br. Stafford	Brown, Ill.	Johnson
Brotman	Erlenborn	Jones, Tenn.
Brown, Ohio	Flowers	Keith
Brown, Va.	Frank, Colo.	Keenan
Burke	Frankel	Leahy
Burke, Tex.	Frankel	Leahy
Burton, Mo.	Frankel	Leahy
Burns	Frankel	Leahy

McClure	Fyler, Ark.	Stecher, Wis.
McCormack	Futnicki	Stephens
McDonald	Purcell	Stratton
Mich.	Rallsback	Stuckey
McKay	Randall	Sullivan
McMillan	Rees	Talbot
Martin	Ripley	Tesoro, Tex.
Mastromaga	Robison, N.Y.	Thompson, Ga.
Mayne	Roncallo	Thompson, N.J.
Meeks	Rooney, N.Y.	Thomson, Wis.
Meicher	Rosenthal	Idell
Michel	Rostenkowski	Van Dusen
Mikva	Rumets	Wagonner
Mills, Md.	St Germain	Waddle
Molloy	Scheuer	Whitcomb
Monaghan	Schultz	Wiggin
Montgomery	Schwengel	Wilson, Neb.
Morgan	Scott	Wirth
Moss	Sebelius	Wolf
Murphy, Ill.	Shipley	Wyatt
Murphy, N.Y.	Shoup	Wyder
Nichols	Sisk	Wyman
Patman	Skubitz	Yatron
Payne	Spencer	Zablocki
Pedell	Springer	
Price, Tex.	Steiger, Ark.	

The SPEAKER. On this rollcall 250 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMMITTEE TO NOTIFY THE PRESIDENT

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 1169) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1169

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints as members on the part of the House of the Committee to Notify the President, the gentleman from Massachusetts, Mr. O'NEILL, and the gentleman from Michigan, Mr. GERALD R. FORD.

(Mr. FRASER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

(Mr. FRASER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CORRECTION OF ROLL CALL

Mr. MITCHELL. Mr. Speaker, on rollcall No. 458, today, a quorum call, I am recorded as absent. I was present and answered to my name. I ask unanimous consent that the rollcall of today be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. MADDEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

(Mr. MADDEN addressed the House.

223 could create an overlapping demand for housing resources needed by other public programs or projects being undertaken or proposed within a locality, and could result in inadvertently restricting public programs or projects that may be deemed essential to the locality. Therefore, Federal agency administrative regulations should provide that (1) the head of the Federal agency will review in light of the competing needs of all other public programs or projects in the locality, and (2) wherever there appears to be a question as to the adequacy of housing resources to meet all relocation needs, the head of the Federal agency, before approving the program or project under review, will obtain recommendations of priority from the appropriate unit of local and state governments.

REMOVAL OF VACANT IMPROVEMENTS

Subsection (c) of the first section of the House amendment added a section 224 to the 1970 Act prohibiting a department, agency, or instrumentality of the Federal Government administering any program providing Federal financial assistance, from imposing any limitation on the removal of vacant improvements located on real property acquired in connection with the Federally assisted project.

The Senate bill contained no comparable provision.

The Senate accepted the House language.

MOVING AND RELATED EXPENSES

Section 3 of the House amendment removed the existing limitation of section 202 (a) (2) that payment of actual direct losses of tangible personal property incurred as the result of moving or discontinuing a business or farm operation, in any case where it is not practicable to determine the reasonable expenses of relocating such personal property.

The Senate bill contained no comparable provision.

The Senate accepted the House language.

DONATIONS

Section 3 of the House amendment added a section 307 to the 1970 Act to provide that nothing in the land acquisition title of the Act shall be construed to prevent a person, after he has received an estimate of the full amount of just compensation for his property, from making a donation of the property or any part of the property or any of the compensation paid him for the property to a Federal agency, a State, or a State agency as the person determines.

The Senate bill contained no comparable provision.

The Senate accepted the House language. The conferees agreed that any such donation be considered as an acquisition for purposes of the 1970 Act.

JOHN C. KLUCZYNSKI,
JIM WRIGHT,
GEORGE W. COLLINS,
DON H. CLARKIN,

Managers on the Part of the House.

EMERUS S. MUSKIE,
LEE HERSHART,
LAWREN CUTLER,
BILL BRACK,

EDWARD J. GIBNEY,

Managers on the Part of the Senate.

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.
- "Sec. 419. Development of low-noise-emission products.
- "Sec. 420. Authorization of appropriations.

"FINDINGS AND POLICY

- "Sec. 403. (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 legislative 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 national specific certification of Federal research and activities, the establishment of Federal noise emission standards for new products, to provide information to the public on 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 publication of use guidelines and other methods and procedures to reduce environmental noise.
- (c) Public participation in the development, revision, and enforcement of noise emission and noise reduction standards, procedures or

plan established by the Administrator or any State or municipality under this Act shall be provided for, encouraged, and facilitated by the Administrator and the State and municipalities. The Administrator, in consultation with the States and municipalities, within ninety days after enactment of this section, shall develop and promulgate regulations specifying minimum guidelines for public participation in such process.

"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 to States made under this Act may be made by installment, 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 418(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, device, or component thereof, except that a farm does not include—

- (1) any aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act, as amended (49 U.S.C. 1331); or
- (2) (A) any military aircraft, rockets, weapons, or equipment which are designed for combat; or (B) any aircraft, rockets, launch vehicles, spacecraft, or equipment which are designed for research, experimentation, or developmental work to be performed by the National Aeronautics and Space Administration, as determined by the President in his discretion.

(d) The term 'state 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 which is available or legal title to which has not 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 manufacture, 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 from a

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 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 effect, measurement, and control of noise, including but not limited to—

"(A) investigation of the direct or indirect effects of noise on humans (including physical, logical 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 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 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 3810 and 3703 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 carry 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.

FINANCIAL PROVISIONS

"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 409, 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 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 these programs to the Fed-

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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 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 automobiles, 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) Electric 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) Explosion and explosive equipment.

"(2) 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 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. 1657 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 a standard that a party manufactured 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 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 811 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 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) identify pursuant to section 407(b) (1); or

"(3) 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 of 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(e)(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 certificates 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 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 523 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 523 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.

"(4) 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 413(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 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 order as he determines it necessary to protect the public health and welfare, such order 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 reduce 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 (1) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administration 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 (2) 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 Administration

tion, 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.

"(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 701-708 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 ninety-day period. 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 Admini-

strator 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 subpoenas 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 subpoena 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 Administrator 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 committee 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 of 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 facilitates, 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 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 (1) identify, if appropriate, sources of environmental noise within the jurisdiction of such agency, and (2) 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 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 404(c) of this Act, when such detail is for the convenience of, and at the request of, such recipient and for the purpose 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.

"EMPLOYMENT OF LOW-NOISE-EMISSION PRODUCTS

"Sec. 418. (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 (8)(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 objections 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 carry out this Act (other than sections 418 and 419) \$10,000,000 for the fiscal year ending June 30, 1973; \$10,000,000 for the fiscal year ending June 30, 1974; and \$10,000,000 for the fiscal year ending June 30, 1975."

Sec. 3. The Clean Air Act is amended to add a new title V as follows:

October 18, 1972

CONGRESSIONAL RECORD—HOUSE

H 10293

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 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 this 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 18 months 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 601 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, 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.

CIVIL 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 Convention of the Territorial Sea and the Contiguous Zone) at a true airspeed 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 460 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 412 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 Act, 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. 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 49 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

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 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 these terms as defined in section 302(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 the 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, \$4 million, and \$12 million. The Senate had \$18 million, \$35 million, and \$80 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.

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 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 contracts and large jet airports, and so forth.

Mr. STAGGERS. Yes.

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 haled 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.

NOTION 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:

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(c) 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,

Bill as passed House & Senate

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 COMMENCE

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.

(4)(i) 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.

(ii) 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 a label for purposes of section 411 of the Clean Air Act.

(d)(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 Committee 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 regulation; 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 standard, 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 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 (1) substantially as they were submitted by EPA, or (1) 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 that 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, 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, 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.

LABELLING

Sec. 9. (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 effective use 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 time of measurement to be used. Sections 6(e)(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 8 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 8, 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 8 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 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 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 553 of title 5 of the United States Code.

(c) 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 Administration 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

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 1005 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 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 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, 7, or 16 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 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 subpoenas 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 subpoena 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.

(5) 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 Act, 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, 32, and 18 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 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 (35 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.

(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. 203(a)).

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated to carry out this Act (other than section 13) \$3,000,000 for the fiscal year ending June 30, 1973; \$3,000,000 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;

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; \$3 million for the fiscal year ending June 30, 1974; and \$12 million for the fiscal year ending June 30, 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 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

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.

NONNAVIGABLE SECTION OF DELAWARE RIVER

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1971) to declare a portion of the Delaware River in Philadelphia County, Pa., non-navigable.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1971

An act to declare a portion of the Delaware River in Philadelphia County, Pennsylvania, nonnavigable.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That portion of the Delaware River in Philadelphia County, Commonwealth of Pennsylvania, lying between all that certain lot or piece of ground situate in the second and fifth wards of the city of Philadelphia described as follows:

Beginning at a point on the easterly side of Delaware Avenue (variable width) said side being the bulkhead line of the Delaware River (approved by the Secretary of War on September 10, 1940), at the distance of 1,833.652 feet from an angle point on the easterly side of said Delaware Avenue south of Washington Avenue;

thence extending along the easterly side of said Delaware Avenue the following courses and distances, (1) north 0 degree 45 minutes 33.2 seconds west 2,524.294 feet to a point; (2) north 9 degrees 35 minutes 25 seconds east, 2,163.160 feet to a point; (3) north 13 degrees 26 minutes 45.8 seconds east, 0,229.270 feet to a point; (4) north 20 degrees 12 minutes 52.4 seconds east, 35.180 feet to an angle point in Delaware Avenue;

thence continuing north 20 degrees 12 minutes 52.4 seconds east along the said bulkhead line, the distance of 574.970 feet to a point on the south house line of Calowhill Street produced;

thence extending along the south house line of Calowhill Street produced south 89 degrees 47 minutes 30.6 seconds east, the distance of 229.908 feet to a point on the pierhead line of the Delaware River (approved by the Secretary of War on September 10, 1940);

thence extending along the said pierhead line the following courses and distances, (1) south 17 degrees 32 minutes 46.8 seconds west, 195.262 feet to a point; (2) south 14 degrees 14 minutes 14.7 seconds west, 1,372.530 feet to a point; (3) south 10 degrees 37 minutes 35.3 seconds west, 1,232.160 feet to a point; (4) south 8 degrees 23 minutes 50.3