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PART I

(Part II begins on page 20159)

NEW LOCATION OF FEDERAL REGISTER OFFICE

Effective Monday, July 30, 1973, the Office of the Federal Register will be located in Room 8401, 1100 L St., NW., Washington, D.C. Documents may be delivered or inspected between the hours of 8:45 a.m. and 5:15 p.m., Monday through Friday, except for Federal holidays. The mail address will remain unchanged; Office of the Federal Register, National Archives and Records Service, Washington, DC 20408.

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 202]

NOISE ABATEMENT

Interstate Motor Carrier Noise Emission Standards

The Environmental Protection Agency proposes to establish a new Part 202 of Title 40 of the Code of Federal Regulations establishing noise emission standards for motor carriers engaged in interstate commerce.

Introduction. Pursuant to section 18 of the Noise Control Act of 1972, Public Law 92-574, 86 Stat. 1234, the Administrator of the Environmental Protection Agency (EPA) "shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce within nine months after the date of enactment of this Act." The 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." The regulations promulgated under the authority of section 18 shall be in addition to regulations proposed under section 6 of the Noise Control Act. Final regulations are to be promulgated within 90 days after publication of the proposed regulations and shall be revised from time to time as determined by the Administrator. All standards and regulations are to be promulgated only after consultation with the Secretary of Transportation to assure appropriate consideration of safety and technological feasibility. The effective date is to be developed by the Administrator, after consultation with the Secretary of Transportation, taking into account the application of requisite technology and giving appropriate consideration to cost of compliance within such period.

As required by section 18(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.

Section 18(c)(1) of the Act requires that "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." Subsection 18(c)(2) provides for States or political subdivisions 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 under section 18.

On February 1, 1973, an advanced notice of proposed rulemaking on the motor carrier noise emissions standard was published in the FEDERAL REGISTER soliciting public comment. The docket established as a result of this action is maintained at the EPA headquarters, 4th & M Streets, SW., Washington, D.C., 20460, and also at EPA Regional Headquarters at 1735 Baltimore Avenue, Kansas City, Missouri, 64108, and 100 California Street, San Francisco, California, 94111. In addition to the material in the docket, a review and analysis of the hearings and reports prepared for the EPA's Report to the President and the Congress on Noise in 1971 (NCR400.1) was conducted. Additional reviews by staff and consultants of technical information from other sources were also completed. Also, a task force composed of Federal, State, and local government representatives was convened to develop recommendations for the motor carrier noise emission standards. The results of all these efforts were reviewed and considered in the development of the proposed regulations. [redacted]. The regulation as proposed will apply to motor vehicles operated in interstate commerce and weighing over 10,000 lb. GVWR. The following proposed standards apply to total vehicle noise:

1. 90 dB(A) at 50 feet in speed limits greater than 35 mph.
2. 86 dB(A) at 50 feet in speed limits equal to or less than 35 mph.
3. 80 dB(A) at 50 feet on level streets in speed limits equal to or less than 35 mph.

4. 88 dB(A) at 50 feet under stationary run-up test.

5. Visual exhaust system inspection.

6. Visual tire inspection.

Enforcement procedures are to be developed and promulgated under separate rule making procedures by the Department of Transportation. Such enforcement procedures will specify minimum requirements for instrumentation, test sites, and other conditions necessary to insure uniformity in testing and minimum acceptable accuracy for any testing.

Enforcement of the standards is contemplated to be more efficient under some conditions if measurements are permitted to be made at distances other than 50 feet which will provide for equivalency to the standards measured at 50 feet.

The effective date of the proposed regulation, subject to consultation with the Secretary of Transportation, is set as October 1, 1974, to allow adequate time for interstate carrier operators to install necessary equipment in a normal maintenance cycle in order to meet the requirements of the regulations.

Subpart C of the regulation addresses the provision for States and political subdivisions thereof to apply to the Administrator for a determination of whether special local conditions justify local noise emissions.

[illegible]. In developing the limits proposed in these regulations, the Administrator applied his judgment as to the definition of "best available technology" and as to what should be considered in "taking into account the cost of compliance." He further had to take into account in these regulations the intent of Congress as stated under section 2(a) that "Federal action is essential to deal with major noise sources in commerce, control of which require national uniformity of treatment," and then to revise such regulations so as to be consistent with the health and welfare requirements of the Act, as specified under section 4.

To meet the requirements of the Act, to apply "the best available technology, taking into account the cost of compliance," the Agency then constructed definitions of the terms "best available technology" and "cost of compliance." In so doing, the Agency carefully considered the strict language of the Act, its legislative history, and other relevant data. Based thereon, for the purposes of these regulations, the following definitions have been established by the Administrator.

"Best available technology" was defined as that noise abatement technology available for retrofit application to motor carriers which produces meaningful reduction in the noise produced by interstate motor carriers. "Available" is further defined to include:

1. Technology applications that have been demonstrated and can be retrofitted on existing trucks.

2. Technology for which there will be a production capacity to produce the estimated number of parts required in reasonable time to allow for distribution and installation prior to the effective date of the regulation.

3. Technology that is compatible with all safety regulations and takes into account operational considerations, including maintenance, and other pollution control equipment.

The cost of compliance, as used in this regulation, means the cost of identifying what action must be taken to meet the specified noise emission level, and the additional cost of operation and maintenance. The cost for future replacement parts was also considered.

"Interstate carrier", as used in this regulation means contract carriers by motor vehicle, common carrier by motor vehicle and private carrier of property by motor vehicle as defined in the Interstate Commerce Act.

The Agency then amassed technology and cost information submitted to the official docket of the regulations as a result of the Advanced Notice of Proposed Rule Making, and information previously developed by the Agency as part of its hearings under Title IV, PL 91-604. The following discussion summarizes the technical and cost information considered in developing the proposed standards.

Truck noise emissions generally determine the penetration depth of highway noise into communities and are a major source of annoyance. The sound levels established by the proposed regulations will impact primarily on heavy duty diesel trucks, which are the predominate source of highway noise. These regulations are directed at reducing that major source. Gasoline powered trucks are subject to this regulation but generally produce less noise than diesel trucks. They will be considered in future regulations as a separate category for more stringent noise emission control standards. Interstate buses are covered by this regulation. However, they are a category of vehicles that presently produce less exterior noise emissions than diesel trucks. At highway speeds, buses emit noise levels from 75-87 dB(A) at 50 feet. Methods of reducing bus noise are similar to those for trucks. Any regulatory noise levels set for trucks will be feasible for buses to meet. Buses will be considered in future reviews of this regulation as candidates for a more restrictive noise emission level requirement.

The proposed regulations are applicable to motor carriers over 10,000 pounds gross vehicle weight rating (GVWR). Trucks in the 6,000 to 10,000 lb. GVWR class almost universally use gasoline engines (essentially passenger car engines) that, at present, are quieter than the diesel powered larger trucks. As a result of the 10,000 pound minimum limit for this regulation, in service trucks weighing less than 10,000 pounds GVWR engaged in interstate commerce will be subject to State or local operational noise control regulations applicable to their weight class, unless the Administrator, in the future, establishes noise emission regulations for this weight class.

The majority of heavy trucks on the road today are powered by diesel engines. Diesel trucks are typically 5 db(A) decibels, measured on the A-weighting scale) noisier than gasoline powered trucks due to power unit noise characteristics and 12 to 18 db(A) noisier than automobiles. The noise output of trucks generally increases with age. At the present time, approximately 60 percent of the operating trucks are more than 5 years old. This increase in noise generation with age is typically a result of poor maintenance and a tendency to use replacement mufflers or recapped tires which generate higher levels of sound emissions than the original equipment. The major contributing sources of truck sound emissions are engines, exhaust, cooling fans, air intakes, and tires. Engine noise is a result of internal combustion and the resultant mechanical component vibrations radiated through the cylinder walls, valve covers and oil pans. Cooling fan noise is a function of air flow irregularities which produce related structural vibrations and is typical of high horsepower engines. Engine exhaust noise is a result of a combination of radiated combustion noise and exhaust outlet pressure variations affected by muffler design exhaust system configuration and engine exhaust backpressures. Air intake noise results from the pulsing induction of air into the engine. The amount of air intake noise depends on the following engine characteristics: Gasoline or diesel, turbocharged or naturally aspirated, number of cylinders, two cycle or four cycle combustion process, and variations in displacement and speed. Tire noise is a function of tire-road interaction, tire construction, tire load, number of tires, and vehicle speed.

The predominate source of truck noise emissions is the exhaust system, principally because of inadequate muffling of the exhaust gases. At speeds above 45 mph tire noise may become a predominate source of truck noise. If exhaust system muffling is not adequate, exhaust noise may be the predominate source even at speeds over 45 mph.

Significant advances in muffler technology in recent years have provided the capability for significantly reducing exhaust noise levels. Noise reduction is achieved by increasing muffler volumes to obtain silencing and low backpressures. Also, acoustical wrapping or double-wall construction of mufflers has significantly reduced noise produced by vibration of the muffler's exterior wall surface.

The results of several statistical studies of highway vehicle noise levels were used in the development of the regulation. Based on these data the percentage of in-service motor carriers that would exceed the proposed vehicle noise emission levels is estimated to be approximately 19 percent.

In development of the 90 dB(A) level for over 35 mph, data were analyzed from 5,638 diesel trucks operated in California in 1965. Of these, approximately 19 percent exceeded 90 dB(A) at 50 feet in the pass-by test. These data were collected prior to a regulatory and enforcement program in California. The analysis of other data from 531 trucks, collected in 1972 in the State of Washington showed a similar result. Measured noise

emissions from 1,000 heavy duty trucks on the New Jersey Turnpike in 1972 indicated that approximately 15 percent exceeded the 90 dB(A) level. The 90 dB(A) noise emission level at highway speeds is approximately equivalent to the 86 dB(A) 35 mph sound level with an additional 4 dB(A) to allow for increases in noise emissions from other speed dependent noise sources on the vehicle such as tires and aerodynamic noise.

For the 35-mph or less test for all vehicle operation conditions, the vehicle acceleration mode determines the maximum noise basis for the standard. Based on 145 tractor trailers studied in California in 1971, approximately 10 percent emitted more than 86 dB(A) at 50 feet. Additional data for 631 trucks measured in California in 1971 and 239 trucks measured in Washington in 1972 indicate that less than 10 percent of these trucks sampled would exceed 86 dB(A) in speed zones of 35 mph or less.

The 35 mph, or less, level street standard is derived from data collected on 235 trucks in California in 1971, and 105 combination vehicles on level street operations in California the same year. In this study nearly 20 percent were operated in a manner such that they would not pass the 80 dB(A) sound emission level at 50 feet. The 80 dB(A) standard for level street operation at 35 mph or less is intended to regulate the manner of operation by the driver and does not impose an additional noise reduction requirement to the vehicle beyond that needed to meet the 86 dB(A) sound level for all highway conditions at 35 mph or less. The level street operation standard of 80 dB(A) is applicable only to conditions of traffic flow in which a constant rate of speed can be maintained and does not apply within 200 feet of any intersection controlled by an official traffic control device or within 200 feet of the beginning or end of any street grade in excess of plus or minus 1 percent.

A stationary run-up test requiring a level of 88 dB(A) at 50 feet or less has been developed by DOT to provide an enforceable standard to implement at weigh stations and other locations where stationary safety inspections are conducted.

The exhaust system performance standard provides a visual inspection and enforcement tool for the DOT, State and local enforcement agencies for enforcement without the use of sound level meters.

All trucks equipped with "pocket retreads" will not be able to comply with the 90 dB(A) noise level limit applicable to high speed operation. The tire retriction provision provides visual inspection and enforcement for "pocket retread" tires.

Certain tread patterns of cross-bar tires produce noise levels which will make them unable to comply with the 90 dB (A) total vehicle noise level limit at speeds greater than 35 mph. It may be necessary for those trucks to install quieter cross-bar tires or rib tires.

The overall costs per vehicle mile of the different tires types are essentially the same since it is the carcass of the tire that determines the number of possible retreads and, hence, the tire life. There do not appear to be any the manufacturers or recappers who make only the noisier type of cross-bar tires or "pocket retreads," resulting in an impact involving a redirecting of the market.

Mufflers required to meet this proposed regulation may cause a small increase in backpressure, but are not expected to have a significant impact on gaseous emissions from heavy duty diesel engines. As new regulations are developed and promulgated under the Clean Air Act, noise emission regulations will be reviewed and revised, if appropriate, to assure no conflicts exist between the two regulations.

The noise levels proposed of 90 dB(A) and 86 dB(A) are presently being enforced in California and the City of Chicago, Illinois, New York City, New York, Colorado, Connecticut, Minnesota, and Indiana.

It is possible for vehicles covered by these proposed regulations to achieve these standards. However, 2 percent or less of the in-use heavy duty diesel fleet may incur relatively prohibitive costs in achieving these standards relative to age and other characteristics of these vehicles. Owners may phase these trucks out as a result of the imposition of these standards. Setting more stringent standards at this time may result in a more significant number of vehicles being phased out, because technology is not available to retrofit such vehicles to achieve the lower standards. A 2–4 decibel reduction beyond the standard proposed at this time is estimated to require partial to full engine enclosure of up to 20 percent of the in-use fleet, but such modifications could not be made to this portion of the in-service fleet within the effective date of these regulations. This key consideration has led the Administrator to propose standards that can be achieved very soon by the noisiest trucks and when retrofit technology becomes available, to propose more stringent standards providing further noise abatement.

The technology now being demonstrated by the DOT "quiet truck" program indicates that significant reductions in present noise levels from diesel trucks can be achieved on new trucks in the future. The DOT is also initiating a truck noise emission retrofit demonstration program planned to be completed during the next 12–18 months, the results of which will be applicable to retrofit of the in-service motor carrier fleet.

The results of this research and the truck tire noise research of DOT and the Department of Commerce will be used by the Administrator as the basis for early revision of these regulations to take advantage of improved technology. The goal of attaining adequate control of noise emission will require that as new technology emerges, new objectives be established. As new information becomes available the Administrator will revise these regulations. (See Section "Intent of Future Regulations.")

For the majority of the vehicles requiring corrective action, the installation of improved mufflers and the elimination of restricted tires will be the only necessary actions required to meet the proposed regulation. The normal exhaust muffler life for heavy duty diesel trucks in interstate commerce is approximately 1½ years. The muffler industry is presently supplying the trucking industry with mufflers at the rate required to perform normal maintenance. A survey of the industry indicates that the need to increase production would not impose problems on the muffler industry or introduce problems in scheduling maintenance in the trucking industry. This kind of information is not available for more elaborate procedures. These facts support the proposed effective date (October 1, 1974) as the earliest date for enforcing uniform regulation.

It is estimated that the proposed standard will impose an approximate initial cost of between $10 and $30 million on the interstate motor carrier industry. This will require an average expenditure of $50 to $200 for each vehicle which cannot presently meet the proposed regulation. With these small increases in the average annual cost of operation, the change in cost per ton mile of freight carried, as a result of this regulation, is expected to be less than one-tenth of a percent increase in present operational costs.

The EPA approach for the reduction of total motor carrier fleet noise is through a phased program of total fleet operational standards issued under section 18 and new product standards issued under section 6. The new product standards to be promulgated by October 1974 will address the application of new truck noise reduction technology, and would not be a regulatory requirement for the existing fleet.

[redacted] the Noise Control Act, Section 4 provides the Administrator with authority to coordinate the noise control and noise research and development programs of all of the Federal agencies; and further requires that all such agencies provide him with information "as he may reasonably require" as to nature, extent, and results of such programs. The Administrator will use his authority under section 4 to ensure that other agencies provide the necessary information, in a timely fashion, so that improvements in these regulations can be made. This authority will also be used to ensure that a comprehensive, coordinated Federal effort is continued in the future.

Section 5(a)(1) requires the development and publication of a Criteria Document that will identify the effects on public health and welfare of differing quantities and qualities of noise. In addition, section 5(a)(2) requires the preparation of an Environmental Noise Report identifying "the levels of environmental noise, the attainment and maintenance of which in defined areas under various conditions are requisite to protect public health and welfare, with an adequate margin of safety."

4. 88 dB(A) at 50 feet under stationary run-up test.

5. Visual exhaust system inspection.

6. Visual tire inspection.

Enforcement procedures are to be developed and promulgated under separate rule making procedures by the Department of Transportation. Such enforcement procedures will specify minimum requirements for instrumentation, test sites, and other considerations necessary to insure uniformity in testing and minimum acceptable accuracy for any testing.

Enforcement of the standards is contemplated to be more efficient under some conditions if measurements are permitted to be made at distances other than 50 feet which will provide for equivalency to the standards measured at 50 feet.

The effective date of the proposed regulation, subject to consultation with the Secretary of Transportation, is set as October 1, 1974, to allow adequate time for interstate carrier operators to install necessary equipment in a normal maintenance cycle in order to meet the requirements of the regulations.

Subpart C of the regulation addresses the provision for States and political subdivisions thereof to apply to the Administrator for a determination of whether special local conditions justify local noise emissions.

[redacted]. In developing the limits proposed in these regulations, the Administrator applied his judgment as to the definition of "best available technology" and as to what should be considered in "taking into account the cost of compliance." He further had to take into account in these regulations the intent of Congress as stated under section 2(a) that "Federal action is essential to deal with major noise sources in commerce, control of which require national uniformity of treatment," and then to revise such regulations so as to be consistent with the health and welfare requirements of the Act, as specified under section 4.

To meet the requirements of the Act, to apply "the best available technology, taking into account the cost of compliance," the Agency then constructed definitions of the terms "best available technology" and "cost of compliance." In so doing, the Agency carefully considered the strict language of the Act, its legislative history, and other relevant data. Based thereon, for the purposes of these regulations, the following definitions have been established by the Administrator.

"Best available technology" was defined as that noise abatement technology available for retrofit application to motor carriers which produces meaningful reduction in the noise produced by interstate motor carriers. "Available" is further defined to include:

1. Technology applications that have been demonstrated and can be retrofitted on existing trucks.

2. Technology for which there will be a production capacity to produce the estimated number of parts required in reasonable time to allow for distribution and installation prior to the effective date of the regulation.

3. Technology that is compatible with all safety regulations and takes into account operational considerations, including maintenance, and other pollution control equipment.

The cost of compliance, as used in this regulation, means the cost of identifying what action must be taken to meet the specified noise emission level, and the additional cost of operation and maintenance. The cost for future replacement parts was also considered.

"Interstate carrier", as used in this regulation means contract carriers by motor vehicle, common carrier by motor vehicle and private carrier of property by motor vehicle as defined in the Interstate Commerce Act.

The Agency then amassed technology and cost information submitted to the official docket of the regulations as a result of the Advanced Notice of Proposed Rule Making, and information previously developed by the Agency as part of its hearings under Title IV, PL 91-604. The following discussion summarizes the technical and cost information considered in developing the proposed standards.

Truck noise emissions generally determine the penetration depth of highway noise into communities and are a major source of annoyance. The sound levels established by the proposed regulations will impact primarily on heavy duty diesel trucks, which are the predominate source of highway noise. These regulations are directed at reducing that major source. Gasoline powered trucks are subject to this regulation but generally produce less noise than diesel trucks. They will be considered in future regulations as a separate category for more stringent *noise emission control standards. Interstate* buses are covered by this regulation. However, they are a category of *vehicles that presently produce less* exterior noise emissions than diesel trucks. At highway speeds, buses emit noise levels from 75–87 dB(A) at 50 feet. Methods of reducing bus noise are similar to those for trucks. Any regulatory *noise levels set for trucks will be feasible* for buses to meet. Buses will be considered in future reviews of this regulation as candidates for a more restrictive noise emission level requirement.

The proposed regulations are applicable to motor carriers over 10,000 pounds gross vehicle weight rating (GVWR). Trucks in the 6,000 to 10,000 lb. GVWR class almost universally use gasoline engines (essentially passenger car engines) that, at present, are quieter than the diesel powered larger trucks. As a result of the 10,000 pound minimum limit for this regulation, in service trucks weighing less than 10,000 pounds GVWR engaged in interstate commerce will be subject to State or local operational noise control regulations applicable to their weight class, unless the Administrator, in the future, establishes noise emission regulations for this weight class.

The majority of heavy trucks on the road today are powered by diesel engines. Diesel trucks are typically 5 db(A) decibels, measured on the A-weighting scale) noisier than gasoline powered trucks due to power unit noise characteristics and 12 to 18 db(A) noisier than automobiles. The noise output of trucks generally increases with age. At the present time, approximately 60 percent of the operating trucks are more than 5 years old. This increase in noise generation with age is typically a result of poor maintenance and a tendency to use replacement mufflers or recapped tires which generate higher levels of sound emissions than the original equipment. The major contributing sources of truck sound emissions are engines, exhaust, cooling fans, air intakes, and tires. Engine noise is a result of internal combustion and the resultant mechanical component vibrations radiated through the cylinder walls, valve covers and oil pans. Cooling fan noise is a function of air flow irregularities which produce related structural vibrations and is typical of high horsepower engines. Engine exhaust noise is a result of a combination of radiated combustion noise and exhaust outlet pressure variations affected by muffler design exhaust system configuration and engine exhaust backpressures. Air intake noise results from the pulsing induction of air into the engine. The amount of air intake noise depends on the following engine characteristics: Gasoline or diesel, turbocharged or naturally aspirated, number of cylinders, two cycle or four cycle combustion process, and variations in displacement and speed. Tire noise is a function of tire-road interaction, tire construction, tire load, number of tires, and vehicle speed.

The predominate source of truck noise emissions is the exhaust system, principally because of inadequate muffling of the exhaust gases. At speeds above 45 mph tire noise may become a predominate source of truck noise. If exhaust system muffling is not adequate, exhaust noise may be the predominate source even at speeds over 45 mph.

Significant advances in muffler technology in recent years have provided the capability for significantly reducing exhaust noise levels. Noise reduction is achieved by increasing muffler volumes to obtain silencing and low backpressures. Also, acoustical wrapping or double-wall construction of mufflers has significantly reduced noise produced by vibration of the muffler's exterior wall *surface.*

The results of several statistical studies of highway vehicle noise levels were used in the development of the regulation. Based on these data the percentage of in-service motor carriers that would exceed the proposed vehicle noise emission levels is estimated to be approximately 10 percent.

In development of the 90 dB(A) level for over 35 mph, data were analyzed from 5,838 diesel trucks operated in California in 1968. Of these, approximately 10 percent exceeded 90 dB(A) at 50 feet in the pass-by test. These data were collected prior to a regulatory and enforcement program in California. The analysis of other data from 531 trucks, collected in 1972 in the State of Washington showed a similar result. Measured noise

Section 6 of the Act provides for the development of noise emission standards for new products distributed in commerce. Standards established under section 6 are to be based on the criteria published under section 5, taking into consideration the best available technology and the cost of compliance. The combination of operational noise emission standards issued under section 18 of the Act and new vehicle noise emission standards issued under section 6 of the Act represents the regulatory program for reduction of motor carrier noise emissions that EPA is following.

Section 8 of the Act provides the Administrator with authority to require that notice be given to prospective users of a product sold wholly or in part on the basis of its effectiveness in reducing noise. Mufflers and similar acoustical devices used on motor vehicles to reduce noise emissions would be subject to such future labeling regulations.

Section 10 of the Act specifies that any violation of these and other EPA regulations implementing other sections of the Noise Control Act and any future regulations established under the authority of section 18 of the Act constitutes a prohibited act. Any person who willfully or knowingly violates the regulation shall be punished by a fine of not more than $25,000.00 per day of violation or imprisonment for not more than one year, or by both, or a fine not exceeding $50,000.00 per day of violation, or imprisonment for not more than two years or by both, following a conviction for a previous violation of the Noise Control Act.

In addition to these provisions, section 4 of the Act requires each Federal agency to consult with the Administrator prior to prescribing standards and regulations respecting noise. The Administrator is to review such proposed standards and regulations and to determine whether they are adequate to protect public health and welfare to the extent he believes required and feasible. This includes regulatory proposals by the Department of Transportation in relation to the Administrator's responsibilities under section 4 of the Act. The Administrator will review the enforcement of the regulations by other Federal agencies in preparing the periodic report on the status and progress of Federal activities relating to noise research and noise control as required by section 4 (a) (3).

[redacted] Passenger bus interiors are not covered by these proposed regulations due to insufficient data on the best technology available and the cost of compliance. The motor carrier operation standards and the vehicle equipment noise standards may indirectly decrease the interior noise levels through regulation of the exterior noise emission. When sufficient information on bus interior noise becomes available, a notice of proposed rulemaking will be issued.

It is recognized that auxiliary equipment, such as refrigeration equipment, may be a source of annoyance. Studies are now underway to determine whether such equipment is a problem and to identify and document the level of noise emitted from such equipment and the technology available and cost associated to reduce that noise emission. As this information becomes available, consideration will be given to revising the proposed regulation to include noise emission standards for auxiliary equipment.

These regulations will be carefully reviewed on or before December 1974, following consideration of the results of DOT's truck noise emission retrofit demonstration and truck tire noise studies mentioned earlier. Revisions, at that time, may be made for significant reductions in the noise emission levels authorized under section 18 of the Act. Revised standards would be in addition to new product standards authorized under section 6 of the Act which will be promulgated not later than October 27, 1974. If in the course of Federal Government studies, or as the result of development by industry or private institutions, it becomes evident that significant improvements in technology are available before December 1974, prompt revision of the regulation will be initiated. Comments and recommendations by all interested persons as to new or advanced technology relevant to this are solicited. An advance notice of proposed rulemaking will be published prior to actual formulation of any revisions of these regulations so that there may be maximum contribution to the rulemaking development by interested parties. The Administrator, under section 4 of the Noise Control Act of 1972, is responsible for coordinating all Federal noise control research. In accordance with that authority, vigorous action will be taken to insure that the results of special truck and tire noise research, and other related research, is made available at the earliest possible time for use in developing revisions hereto. Comments and suggestions as to new and advanced technology relevant to retrofit requirements are solicited and should be submitted as provided for in the following Public Comment Section.

Preemption. Under section 18(c)(1), after the effective date of the regulations proposed herein, no State or political subdivision thereof may adopt or enforce any standard applicable to the same operation of such motor carriers unless such standard is identical to a standard applicable to noise emissions resulting from such operation. These regulations are not intended to diminish or to enhance the rights of any State or political subdivision 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 local conditions and is not in conflict with the regulations issued under section 18. The procedure for State or political subdivisions thereof to request such a determination by the Administrator is briefly outlined in this regulation. The burden of proof for identifying and defending those special local conditions necessitating regulations shall be on the applicant. Further specification of the report to be submitted for such a determination will be delineated by December 31, 1973. The Administrator is interested in receiving comments and recommendations regarding the types of situations and appropriate guidelines for granting States and political subdivisions thereof special administrative approval.

Public comment. Section 18 of the Noise Control Act of 1972 requires that final regulations be promulgated not later than 90 days after the date of publication of proposed regulations, and only after consultation with the Secretary of Transportation. Interested persons may submit written data, views, or arguments in regard to the regulations proposed herein to:

Office of Noise Abatement and Control
Attention: Docket No. ONAC 7202003
Environmental Protection Agency
Washington, D.C., 20460

All relevant material received on or before July 27, 1973, will be considered. All comments will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the Office of Public Affairs, Room 329-C, Waterside Mall, 4th & M Streets, SW., Washington, D.C. 20460.

A background document on motor carrier noise emissions and controls has been prepared and is at the Office of Public Affairs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460.

Final regulations reflecting modifications as the Administrator deems appropriate, after consideration of public comments, and the views of the Secretary of Transportion, will be promulgated no later than 90 days after publication of this notice.

ROBERT W. FRI,
Acting Administrator.

JULY 24, 1973.

Part 202 of Title 40 is proposed to read as follows:

Subpart A—General Provisions

Subpart B—Interstate Motor Carrier Operations Standards

Subpart C—Special Local Condition Determinations

AUTHORITY: Sec. 18(a), 86 Stat. 1249, 42 U.S.C. 4917(a).

Subpart A—General Provisions

§ 202.1 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them in the Act:

(a) "Act" means the Noise Control Act of 1972 (P.L. 92-574), 86 Stat. 1234.

(b) "Common carrier by motor vehicle" means any person who holds himself out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of passengers or property or any class or classes thereof for compensation, whether over regular or irregular routes.

(c) "Contract carrier by motor vehicle" means any person who engages in transportation by motor vehicle of passengers or property in interstate or foreign commerce for compensation (other than transportation referred to in paragraph (b) of this section) under continuing contracts with one person or a limited number of persons either (1) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served or (2) for the furnishing of transportation services designed to meet the distinct need of each individual customer.

(d) "Cutout or by-pass or similar device" means devices which vary the exhaust system gas flow so as to discharge the exhaust gas and acoustic energy to the atmosphere without passing through the entire length of the exhaust system including all exhaust system sound attenuation components.

(e) "db(A)" means weighted sound level measured by the use of metering characteristics and the prescribed A-weighting frequency response specified in American National Standard S1.4.1971. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York, 10018.

(f) "Exhaust system" means the system comprised of a combination of components which provides for enclosed flow of exhaust gas from engine exhaust parts to the atmosphere.

(g) "Fast meter response" means the meter ballistics of meter dynamic characteristics as specified by American National Standard S1.4.1971, or subsequent revisions. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York, 10018.

(h) "Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

(i) "Highway" means the streets, roads, and public ways in any State.

(j) "Interstate commerce" means the commerce between any place in one State and any place in another State or between places in the same State through another State, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water.

(k) Motor carrier means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property by motor vehicle.

(l) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(m) "Person" means any individual, firm, copartnership, corporation, company association, or joint-stock association and includes any trustee, receiver, assignee or personal representative thereof.

(n) "Private carrier of property by motor vehicle" means any person not included in terms "common carrier by motor vehicle" or "contract carrier by motor vehicle," who or which transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for sale, lease, rent or bailment, or in furtherance of any commercial enterprise.

(o) "Sound level" means 20 times the logarithm to base 10 of the ratio of pressure of a sound to the reference pressure. The reference pressure is 20 micronewtons per square meter (2×10^{-4} microbar) per American National Standard S1.4.1971. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York, 10018.

(p) "Street" means any roadway in business, residential, or urban districts which is not an Interstate highway or legally designated truck route or approved truck detour.

(q) "Official traffic control device" means any traffic light, stop or yield sign, official or policeman.

The provisions of Subpart B shall become effective October 1, 1974.

Subpart B—Interstate Motor Carrier Operations Standards

§ 202.10 Applicability.

The provisions of Subpart B shall apply to any motor vehicle with a gross vehicle weight rating in excess of 10,000 pounds operated by a motor carrier in interstate commerce. These provisions apply to the total sound level emitted by a motor vehicle operated under the conditions specified.

§ 202.11 Standards for highway operations.

No person shall operate a motor vehicle of a type subject to this regulation at any time or under any condition of highway grade, load, acceleration or deceleration in such a manner as to generate in excess of 86 dB(A) measured with fast meter response at 50 feet from the centerline of lane of travel on highways with speed limits of 35 mph or less; or 90 dB(A) measured with fast meter response at 50 feet from the centerline of lane of travel on highways with speed limits of more than 35 mph. This section shall not be construed as limiting or precluding the enforcement of any other provisions of Subparts B and C of this part.

§ 202.12 Standards for Level Street Operations 35 mph or Under.

(a) Notwithstanding the provisions of § 202.11, no person shall operate a motor vehicle upon any street with a speed limit of 35 mph or less and grade not exceeding plus or minus 1 percent in such a manner as to exceed 80 dB(A) measured with fast meter response at 50 feet from the centerline of lane of travel.

(b) This section shall not apply within 200 feet of any intersection controlled by an official traffic control device or within 200 feet of the beginning or end of any grade in excess of plus or minus 1 percent. This section shall not apply when the vehicle flow is not at a constant rate of speed and traffic is congested and requires noticeable acceleration or deceleration.

§ 202.13 Standard for operation under stationary test.

(a) No person shall operate a motor vehicle which is powered by an engine with engine speed governor which generates more noise than 88 dB(A) measured with fast meter response at 50 feet from vehicle centerline when that engine is accelerated from idle with wide open throttle to govern speed with the vehicle stationary, transmission in neutral, and clutch engaged.

(b) This section applies to the total noise from the vehicle or combinations of vehicles excluding tire noise. It shall not be construed as limiting or precluding enforcement of any other provision of Subpart B of this part.

§ 202.14 Visual exhaust system inspection.

No person shall operate a vehicle which has no expansion chamber, resonator or noise dissipative device in the exhaust system or is not equipped with an exhaust gas driven turbocharger, except that gas driven turbochargers alone will not be adequate on vehicles equipped with an engine brake unless such person can show that no such device is needed to enable said vehicle to meet noise standards under Subpart B of this part. Exhaust system components shall be in constant operation and properly maintained. No exhaust system shall be equipped with a cutout, by-pass, or similar device.

§ 202.15 Visual tire inspection.

No motor vehicle shall be operated on tires at any time having tread pattern composed primarily of cavities in the tread (excluding sipes and local chunking or irregularities of wear) which are not vented by grooves to the tire shoulder or circumferentially to each other around the tire, unless such vehicle equipped with such tires can be shown not to exceed noise standards under Subpart B of this part.

§ 202.16 Enforcement procedures.

Under separate rulemaking procedures, the U.S. Department of Transportation will establish specific procedures for enforcement of these standards. Minimum requirements for instrumentation, test sites, and other conditions necessary to insure uniformity and minimum accuracy in testing shall be so prescribed. Procedures for measurement of vehicle sound levels under conditions of varying distance (other than 50 feet) may be prescribed in which case the measurement procedures and sound level limits shall be established to be equivalent to the sound level limits established in this subpart measured at 50 feet.

Subpart C—Special Local Conditions Determinations

§ 202.20 Applicability.

The provisions of this Subpart C shall apply to any State or political subdivision thereof requesting authority 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 where such standards, controls, licenses, regulations or restrictions are applicable to operations subject to this regulation in any way not identical to the provision of subpart B of this part.

§ 202.21 Application procedures.

Any State or political subdivision thereof requesting an administrative determination under section 18(c)(2) of the Act shall submit to the Administrator a detailed report delineating the special local conditions requiring consideration, how the proposal of the State or political subdivision thereof is not in conflict with Subpart B of this part and how the proposal interferes, if at all, with interstate commerce. The Administrator will publish, by December 31, 1973, a detailed report format for determination requests under this section.

[FR Doc.73-15000 Filed 7-26-73;8:45 am]

CORRECTION NOTICE

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 202]

NOISE ABATEMENT

PROPOSED RULES

ment of Health, 4210 East 11th Street, Denver, Colorado.

Dated: July 30, 1973.

ROBERT W. FRI,
Acting Administrator.

[FR Doc.73-15076 Filed 8-2-73;8:45 am]

[40 CFR Part 202]

NOISE ABATEMENT

Interstate Motor Carrier Noise Emission Standards

Correction

In FR Doc. 73-15500 appearing at page 20102 in the issue of Friday, July 27, 1973, in the second complete paragraph in the third column on page 20105, the date "July 27, 1973" in the second line, should read "September 10, 1973".