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The Slow Implementation of the Noise Control Act of 1972. April 19, 1977. 15 pp.

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The implementation of the Federal Government's noise pollution control program was investigated. Findings/Conclusions: The Noise Control Act of 1972 was designed to eliminate excess noise in the design stage of a wide variety of new consumer products. Little has been accomplished by the Environmental Protection Agency (EPA) in carrying out its responsibilities under the act, and where action has been taken, the implementation has been very slow. With regard to new products, the EPA has identified 11 major sources of noise, but final regulations have been issued for only two of these. These regulations were issued over 1 year late, and will not become effective until 1978. Noise emission regulations for railroads and motor carriers engaged in interstate commerce were also issued late, and violators of these regulations are not being prosecuted because the act calls for criminal rather than civil penalties. No final regulations have been issued for labelling any products as to noise levels. Technical assistance to State and local governments to aid development of noise standards has been given low priority. EPA efforts to coordinate the noise research and control programs of the Federal Government have not been effective. An overall noise program strategy has been drafted and submitted for comment. This strategy is a good first effort in the development of a unified, national effort to reduce noise pollution. Lack of coordination between the EPA and the Federal Aviation Administration has seriously hindered the development of aviation noise control regulations. (SC)

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STATEMENT OF
HENRY ESCHWEGE, DIRECTOR
COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE
SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE
HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

ON

THE SLOW IMPLEMENTATION OF THE
NOISE CONTROL ACT OF 1972

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE ARE HERE TODAY AT YOUR INVITATION TO DISCUSS OUR MARCH 1977 REPORT TO THE CONGRESS ON THE IMPLEMENTATION OF THE NOISE CONTROL ACT OF 1972 TITLED "NOISE POLLUTION-- FEDERAL PROGRAM TO CONTROL IT HAS BEEN SLOW AND INEFFECTIVE." MY STATEMENT WILL HIGHLIGHT THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS INCLUDED IN THAT REPORT.

IN RESPONSE TO THE BASIC QUESTION OF WHETHER THE FEDERAL GOVERNMENT'S NOISE PROGRAM HAS BEEN WORKING SMOOTHLY, WE HAVE TO REPORT TO YOU MR. CHAIRMAN THAT IT HAS NOT. AFTER MORE THAN 4 YEARS, IMPLEMENTATION OF THE NOISE ACT HAS BEEN SLOW AND, IN SOME CASES, INEFFECTIVE. I DO HASTEN TO ADD THAT SOME ACTIONS TAKEN HAVE BEEN SIGNIFICANT IN ADDRESSING THE NOISE POLLUTION PROBLEM.

TO DATE, ONLY FOUR NOISE EMISSION STANDARDS HAVE BEEN ISSUED UNDER THE ACT AND THESE WERE MANY MONTHS LATE. LITTLE PROGRESS HAS BEEN MADE IN ISSUING FINAL AIRCRAFT/AIRPORT NOISE REDUCTION REGULATIONS. IMPLEMENTATION OF CERTAIN SECTIONS OF THE ACT, SUCH AS LABELING, TECHNICAL ASSISTANCE, AND RESEARCH COORDINATION, HAS RECEIVED LOW PRIORITY BY THE ENVIRONMENTAL PROTECTION AGENCY AND THEREFORE, NOT MUCH HAS BEEN ACCOMPLISHED IN THESE AREAS.

OUR REPORT RECOMMENDED THAT THE APPROPRIATE CONGRESSIONAL COMMITTEES OR SUBCOMMITTEES HOLD OVERSIGHT HEARINGS TO EVALUATE PAST PERFORMANCE AND PROVIDE GUIDANCE FOR FUTURE ACTIVITIES AND WE ARE PLEASED THAT THIS SUBCOMMITTEE IS EXPLORING SOME OF THESE PROBLEMS.

ABOUT 13 MILLION AMERICANS ARE LIVING IN PLACES WHERE NOISE FROM CARS, BUSES, TRUCKS, AIRPLANES, CONSTRUCTION EQUIPMENT, AND KITCHEN GADGETS MAY BE HARMING THEIR HEALTH. AN ESTIMATED 16 MILLION PEOPLE IN THE UNITED STATES SUFFER FROM SOME DEGREE OF HEARING LOSS DIRECTLY CAUSED BY NOISE. FURTHERMORE, AN ESTIMATED 100 MILLION PEOPLE RESIDE IN AREAS WHERE THE AVERAGE NOISE LEVEL EXCEEDS THE LEVEL WHICH THE ENVIRONMENTAL PROTECTION AGENCY SAYS IS CLEARLY IDENTIFIED WITH MARKED ANNOYANCE.

THE NOISE CONTROL ACT OF 1972--THE FIRST COMPREHENSIVE NOISE CONTROL LEGISLATION PASSED BY CONGRESS--WAS DESIGNED TO

ELIMINATE EXCESS NOISE IN THE DESIGN STAGE OF A WIDE VARIETY OF NEW CONSUMER PRODUCTS. THE OBJECTIVES OF THE ACT ARE TO "PROMOTE AN ENVIRONMENT FOR ALL AMERICANS FREE FROM NOISE THAT JEOPARDIZES THEIR HEALTH OR WELFARE" AND "TO ESTABLISH A MEANS FOR EFFECTIVE COORDINATION OF FEDERAL RESEARCH AND ACTIVITIES IN NOISE CONTROL."

THE NOISE ACT DIRECTS THE ENVIRONMENTAL PROTECTION AGENCY (EPA) TO:

- COORDINATE ALL FEDERAL PROGRAMS RELATING TO NOISE RESEARCH AND NOISE CONTROL AND REPORT TO THE CONGRESS ON THE STATUS AND PROGRESS OF FEDERAL NOISE CONTROL ACTIVITIES.
- PUBLISH CRITERIA IDENTIFYING THE EFFECTS OF NOISE AND PROVIDE INFORMATION ON THE LEVELS OF NOISE NECESSARY TO PROTECT THE PUBLIC HEALTH AND WELFARE.
- IDENTIFY MAJOR SOURCES OF NOISE AND PRESCRIBE AND AMEND STANDARDS LIMITING THE NOISE-GENERATING CHARACTERISTICS OF ANY PRODUCT OR CLASS OF PRODUCTS IDENTIFIED AS A MAJOR SOURCE OF NOISE.
- PREPARE A COMPREHENSIVE REPORT ON THE PROBLEM OF AIRCRAFT/AIRPORT NOISE AND SUBMIT REGULATORY PROPOSALS TO THE FEDERAL AVIATION ADMINISTRATION FOR CONTROL OF AIRCRAFT/AIRPORT NOISE.
- REQUIRE MANUFACTURERS TO LABEL PRODUCTS WHICH
 - (1) EMIT NOISE CAPABLE OF ADVERSELY AFFECTING THE

PUBLIC HEALTH OR WELFARE, OR (2) ARE SOLD WHOLLY OR IN PART ON THE BASIS OF THEIR EFFECTIVENESS IN REDUCING NOISE.

--CONDUCT AND FINANCE RESEARCH ON THE PSYCHOLOGICAL EFFECTS OF NOISE AND PROVIDE TECHNICAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS ON THE VARIOUS METHODS OF NOISE CONTROL.

--PROMULGATE REGULATIONS LIMITING THE NOISE GENERATED FROM INTERSTATE RAIL CARRIERS AND INTERSTATE MOTOR CARRIERS.

TODAY WE WOULD LIKE TO COMMENT ON THE FOLLOWING PROBLEMS PRESENTED IN OUR REPORT.

--THE SLOW IMPLEMENTATION OF THE NOISE CONTROL ACT,

--INEFFECTIVE EFFORTS BY EPA TO COORDINATE THE NOISE RESEARCH AND CONTROL PROGRAMS,

--THE NEED FOR DEVELOPMENT OF A COMPREHENSIVE NOISE ABATEMENT STRATEGY, AND

--CONFLICTS IN RESOLVING THE PROBLEMS OF AIRCRAFT/AIRPORT NOISE POLLUTION.

SLOW IMPLEMENTATION OF THE NOISE ACT

UNDER THE ACT, EPA IS RESPONSIBLE FOR (1) ISSUING NOISE EMISSION STANDARDS FOR NEW PRODUCTS AND FOR RAILROADS AND INTERSTATE MOTOR CARRIERS; (2) REQUIRING THE LABELING OF PRODUCTS WHICH CAN ADVERSELY AFFECT THE PUBLIC HEALTH

AND WELFARE, AND (3) PROVIDING TECHNICAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS.

OUR REVIEW SHOWED THAT LITTLE HAS BEEN ACCOMPLISHED IN CARRYING OUT SOME OF THESE RESPONSIBILITIES. WHERE ACTION HAS BEEN TAKEN, THE IMPLEMENTATION HAS BEEN VERY SLOW.

WITH REGARD TO NEW PRODUCTS, EPA HAS IDENTIFIED ELEVEN MAJOR SOURCES OF NOISE--PORTABLE AIR COMPRESSORS, MEDIUM AND HEAVY DUTY TRUCKS, WHEEL AND TRACK LOADERS, WHEEL AND TRACK DOZERS, TRUCK REFRIGERATION UNITS, TRUCK-MOUNTED SOLID WASTE COMPACTORS, MOTORCYCLES, BUSES, POWER LAWNMOWERS, PAVEMENT BREAKERS, AND ROCK DRILLS.

FINAL REGULATIONS HAVE BEEN ISSUED FOR ONLY TWO OF THESE--PORTABLE AIR COMPRESSORS AND MEDIUM AND HEAVY DUTY TRUCKS--AND THESE WERE ISSUED OVER 1 YEAR LATE AND WILL NOT BECOME EFFECTIVE UNTIL 1978.

THE ACT SPECIFICALLY REQUIRED EPA TO PUBLISH PROPOSED NOISE EMISSION REGULATIONS FOR RAILROADS AND MOTOR CARRIERS ENGAGED IN INTERSTATE COMMERCE WITHIN 9 MONTHS AFTER THE DATE OF ENACTMENT. IN BOTH CASES, FINAL REGULATIONS WERE TO BE ISSUED 90 DAYS AFTER PROPOSAL. REGULATIONS FOR THESE 2 NOISE SOURCES WERE ISSUED LATE--12 MONTHS FOR MOTOR CARRIERS AND OVER 2 YEARS FOR RAILROADS. THE FEDERAL HIGHWAY ADMINISTRATION IS NOT SEEKING PROSECUTION OF VIOLATORS OF THE REGULATION CONTROLLING NOISE ON INTERSTATE MOTOR CARRIERS BECAUSE THE ACT PROVIDES FOR CRIMINAL PENALTIES RATHER THAN

CIVIL PENALTIES. IN OUR REPORT WE RECOMMENDED THAT THE ACT BE AMENDED TO PROVIDE FOR CIVIL PENALTIES.

THERE IS SOME DIFFERENCE OF OPINION BETWEEN THE DEPARTMENT OF TRANSPORTATION (DOT) AND EPA REGARDING THE EFFECTIVENESS OF THE NOISE REGULATION ON INTERSTATE RAILROADS IN THAT IT DOES NOT APPLY TO RAILROAD YARDS. THE ASSOCIATION OF AMERICAN RAILROADS FILED SUIT ON APRIL 13, 1976, IN THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, REQUESTING A JUDICIAL REVIEW OF THE RAILROAD REGULATION ON THE BASIS THAT IT DID NOT ADEQUATELY PROVIDE FOR NATIONAL UNIFORM TREATMENT OF THE RAILROAD INDUSTRY.

THE ACT PROVIDES THAT EPA REQUIRE ANY PRODUCT EMITTING A NOISE CAPABLE OF HARMING THE PUBLIC HEALTH OR WELFARE BE "LABELED" TO INDICATE ITS NOISE LEVEL. EPA HAS ISSUED NO FINAL REGULATIONS FOR LABELING ANY PRODUCTS AT THIS TIME. THE LABELING PROGRAM HAS BEEN GIVEN A LOW PRIORITY AND HAS RECEIVED MINIMUM RESOURCES.

EPA IS AUTHORIZED TO PROVIDE TECHNICAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS TO FACILITATE THEIR DEVELOPMENT AND ENFORCEMENT OF COMPREHENSIVE NOISE STANDARDS. SUCH ASSISTANCE IS TO INCLUDE ADVICE ON TRAINING PERSONNEL, SELECTING AND OPERATING NOISE ABATEMENT EQUIPMENT, AND PREPARING MODEL NOISE LEGISLATION. EPA HAS ALSO PLACED LOW PRIORITY IN THE TECHNICAL ASSISTANCE AREA. HOWEVER, EPA OFFICIALS HAVE TOLD US THEY REALIZE THE BURDEN OF THE

NATION'S NOISE CONTROL EFFORTS WILL EVENTUALLY FALL ON STATE AND LOCAL GOVERNMENTS AND THAT ALTHOUGH THE OFFICE OF NOISE ABATEMENT AND CONTROL HAS NOT BEEN TOO EFFECTIVE IN THIS AREA, GREATER EMPHASIS WILL BE PLACED ON TECHNICAL ASSISTANCE IN THE NEAR FUTURE.

EPA EFFORTS TO COORDINATE THE NOISE RESEARCH AND CONTROL PROGRAMS OF THE FEDERAL GOVERNMENT HAVE NOT BEEN EFFECTIVE

THERE ARE 11 AGENCIES WITH SIGNIFICANT INVOLVEMENT IN NOISE CONTROL WITHIN THE FEDERAL GOVERNMENT. UNDER THE 1972 ACT THE CONGRESS CHARGED EPA WITH THE RESPONSIBILITY FOR COORDINATING THE NOISE RESEARCH AND CONTROL PROGRAMS OF ALL FEDERAL AGENCIES. THESE 11 AGENCIES EXPENDED ABOUT \$170 MILLION FOR NOISE RESEARCH FROM FISCAL YEAR 1973 THROUGH FISCAL YEAR 1975.

OUR REVIEW HAS SHOWN THAT EPA HAS NOT BEEN EFFECTIVE IN PROMOTING COORDINATION. THE MAJORITY OF AGENCIES CONTACTED TOLD US THAT COORDINATION OF THE FEDERAL NOISE CONTROL PROGRAM HAS NOT BEEN EFFECTIVE SINCE EPA ASSUMED THE RESPONSIBILITY.

TO DISCHARGE ITS LEGISLATIVE MANDATE TO COORDINATE FEDERAL AGENCY NOISE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES, EPA ESTABLISHED FOUR INTERAGENCY NOISE RESEARCH PANELS IN FEBRUARY 1974. IN ADDITION TO EXCHANGING INFORMATION, THE PANELS WERE TO (1) REVIEW AND ASSESS THE CURRENT STATE OF

TECHNOLOGY, (2) REVIEW AND ASSESS THE STATUS OF RESEARCH AND TECHNOLOGY DEVELOPMENT, (3) PREPARE RECOMMENDATIONS CONCERNING ONGOING RESEARCH ACTIVITIES, (4) RECOMMEND NOISE RESEARCH PROGRAMS AND PROJECTS AND METHODS FOR THEIR ACCOMPLISHMENT, (5) PREPARE REPORTS ON THE STATUS AND/OR PROGRESS OF ONGOING NOISE RESEARCH ACTIVITIES, AND (6) CONSIDER SCIENTIFIC AND PROGRAMMATIC ADVICE FROM OTHER SOURCES. THE FOUR RESEARCH PANELS ESTABLISHED WERE AIRCRAFT, MACHINERY, NOISE EFFECTS, AND SURFACE VEHICLES.

EPA HAS STATED THAT THESE FOUR PANELS WERE TO PROVIDE THE MECHANISM FOR COORDINATING THE NOISE RESEARCH ACTIVITIES OF THE FEDERAL GOVERNMENT. HOWEVER, EPA OFFICIALS AND OFFICIALS FROM THE OTHER AGENCIES ON THE PANELS HAVE TOLD US THE PANELS HAVE NOT BEEN EFFECTIVE. IN FACT, THE PANELS FIRST MET IN EARLY 1974 AND THEN WERE INACTIVE FOR OVER 2 YEARS. THE PANELS WERE REACTIVATED IN THE LATTER PART OF 1976.

IN JUNE 1975 EPA ISSUED ITS REPORT ON THE STATUS AND PROGRESS OF FEDERAL ACTIVITIES ON NOISE RESEARCH AND NOISE CONTROL, AS REQUIRED BY THE ACT. THE REPORT, ACCORDING TO EPA AND OTHER AGENCY OFFICIALS, DOES NOT MEET THE REQUIREMENTS OF THE ACT BECAUSE IT DOES NOT ADEQUATELY ASSESS THE CONTRIBUTIONS OF THOSE PROGRAMS TO THE FEDERAL GOVERNMENT'S OVERALL EFFORTS TO CONTROL NOISE. OFFICIALS IN THE OFFICE OF NOISE ABATEMENT AND CONTROL TOLD US THE REPORT IS ESSENTIALLY AN INVENTORY OR LIBRARY OF INFORMATION, AND THEREFORE DOES NOT

CONSTITUTE AN ASSESSMENT, AS CALLED FOR IN THE ACT. EPA OFFICIALS TOLD US, HOWEVER, THAT THEY PLAN TO UPDATE THE STATUS REPORT AND INCLUDE THE REQUIRED ASSESSMENT.

EPA IS AUTHORIZED TO CONDUCT RESEARCH ON THE EFFECTS, MEASUREMENTS, AND CONTROL OF NOISE. HOWEVER, EPA'S EXPENDITURES FOR NOISE RESEARCH HAVE DECLINED FROM ABOUT \$545,000 IN FISCAL YEAR 1975 TO \$45,000 IN FISCAL YEAR 1976. EPA DID NOT REQUEST FUNDS FOR NOISE RESEARCH IN FISCAL YEARS 1977 OR 1978. RECENTLY, EPA'S OFFICE OF RESEARCH AND DEVELOPMENT PUBLISHED A 5-YEAR PLAN FOR ITS TOTAL RESEARCH AND DEVELOPMENT ACTIVITIES. NO CONSIDERATION WAS GIVEN TO NOISE RESEARCH IN THIS PLAN.

IN COMMENTING ON OUR REPORT DOT STATED THAT THE NOISE RESEARCH BUDGET FOR THE ENTIRE FEDERAL GOVERNMENT HAD DECREASED SINCE ENACTMENT OF THE NOISE ACT BECAUSE OTHER AGENCIES HAVE LOOKED TO EPA FOR LEADERSHIP AND GUIDANCE.

NEED FOR DEVELOPMENT OF A COMPREHENSIVE
NOISE ABATEMENT STRATEGY

TWO MONTHS AFTER THE NOISE ACT WAS PASSED EPA PREPARED A STRATEGY STUDY FOR IMPLEMENTATION OF THE ACT. THIS DOCUMENT PLACED PRIMARY EMPHASIS ON DEVELOPING STANDARDS FOR THE CONTROL OF MAJOR NOISE SOURCES IN THE SURFACE TRANSPORTATION AND CONSTRUCTION AREAS, PRODUCING THOSE DOCUMENTS WITH MANDATORY DEADLINES, PRODUCING AIRCRAFT/AIRPORT PROPOSALS FOR SUBMISSION TO FAA, AND PUBLISHING THE INTERSTATE CARRIER REGULATION. AREAS SUCH AS TECHNICAL ASSISTANCE,

FEDERAL PROGRAM COORDINATION, AND LABELING WERE GIVEN LOWER PRIORITY IN THE NEAR TERM.

EARLY IN 1974 EPA OFFICIALS RECOGNIZED THAT THE ORIGINAL STRATEGY STUDY NEEDED TO BE UPDATED AND A REVISED STRATEGY WAS PREPARED IN JULY 1974. EPA OFFICIALS HAVE TOLD US, HOWEVER, IT WAS NOT AS COMPREHENSIVE AS IT SHOULD HAVE BEEN, AND THEREFORE WAS NEVER APPROVED BY THE EPA ADMINISTRATOR. ALTHOUGH EPA RECOGNIZED THE NEED FOR A MORE COMPREHENSIVE NOISE ABATEMENT STRATEGY, NONE HAS BEEN FINALIZED TO DATE.

IN OUR REPORT WE RECOMMENDED THAT THE ADMINISTRATOR, EPA, DIRECT THAT AN OVERALL STRATEGY FOR THE NOISE CONTROL PROGRAM BE PREPARED SO THAT ALL PROVISIONS OF THE NOISE CONTROL ACT ARE IMPLEMENTED IN A BALANCED COORDINATED MANNER.

EPA COMMENTED THAT A DRAFT STRATEGY HAD BEEN CIRCULATED FOR PUBLIC COMMENT IN NOVEMBER 1976 AND THAT THE STRATEGY WOULD BE REDRAFTED IN THE SPRING OF 1977.

WE BELIEVE THE OVERALL NOISE PROGRAM STRATEGY THAT HAS BEEN DRAFTED AND SUBMITTED FOR COMMENT IS A GOOD FIRST EFFORT IN THE DEVELOPMENT OF A UNIFIED, NATIONAL EFFORT TO REDUCE NOISE POLLUTION. THIS STRATEGY SHOULD BE FINALIZED AS SOON AS POSSIBLE SO THE PROVISIONS IN THE 1972 ACT CAN BE IMPLEMENTED EFFECTIVELY.

CONFLICTS IN RESOLVING THE
PROBLEMS OF AIRCRAFT/AIRPORT NOISE

IN 1968 THE CONGRESS PASSED PUBLIC LAW 90-411 THAT ADDED TO THE FEDERAL AVIATION ACT OF 1958 A NEW SECTION ENTITLED "CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM." THIS LAW GAVE FAA THE RESPONSIBILITY FOR ". . . PRESENT AND FUTURE RELIEF AND PROTECTION TO THE PUBLIC HEALTH AND WELFARE FROM AIRCRAFT NOISE AND SONIC BOOM . . ." CONSISTENT WITH SAFETY, ECONOMIC REASONABLENESS, AND TECHNOLOGICAL PRACTICABILITY. THE NOISE CONTROL ACT EXTENDED THE PROVISIONS OF PUBLIC LAW 90-411 AND FURTHER DEFINED THE POLICY OF THE U.S. GOVERNMENT REGARDING AIRCRAFT NOISE CONTROL.

ALTHOUGH AVIATION REGULATORY AUTHORITY RESTS WITH THE FEDERAL AVIATION ADMINISTRATION, UNDER THE ACT THE ENVIRONMENTAL PROTECTION AGENCY IS MANDATED TO PLAY A SIGNIFICANT ROLE IN THE AVIATION REGULATORY PROCESS. THE ACT REQUIRED EPA TO STUDY THE ADEQUACY OF FAA FLIGHT AND OPERATIONAL NOISE CONTROLS; AND SUBMIT RECOMMENDATIONS FOR REGULATIONS TO FAA WHICH EPA DEEMED NECESSARY TO PROTECT THE PUBLIC HEALTH AND WELFARE.

IT IS CLEAR THAT A COORDINATED JOINT EFFORT BETWEEN THE TWO AGENCIES IS NECESSARY IF ANY PROGRESS IS TO BE MADE IN ABATING AIRCRAFT NOISE. HOWEVER, NEITHER THE FAA NOR THE EPA FEEL THE OTHER IS EFFECTIVELY IMPLEMENTING THE AIRCRAFT NOISE PROVISIONS OF THE ACT. FAA BELIEVES THE EPA PROPOSED

RECOMMENDATIONS CENTER TOO MUCH ON SAFETY-RELATED PROBLEMS, AND DO NOT ADEQUATELY COVER THE HEALTH AND WELFARE ASPECTS OF NOISE. EPA OFFICIALS ON THE OTHER HAND, TOLD US THEY HAVE BEEN DISSATISFIED WITH THE COOPERATIVE EFFORTS OF FAA. EPA BELIEVES THAT THE AVIATION NOISE PROBLEM IS ESSENTIALLY THE SAME AS WHEN THE ACT WAS PASSED AND THEY SEE LITTLE PROGRESS BEING MADE DURING THE NEXT FEW YEARS.

DURING THE PERIOD FROM DECEMBER 6, 1974, TO OCTOBER 22, 1976, EPA SUBMITTED 11 PROPOSED REGULATIONS TO FAA. THESE DEALT WITH SUCH MATTERS AS PROPELLER-DRIVEN SMALL AIRPLANES, MINIMUM ALTITUDES, RETROFIT, PRESENT AND FUTURE SUPERSONIC CIVIL AIRCRAFT, MINIMUM FLAPS LANDING APPROACH, AND THE AIRPORT REGULATORY PROCESS.

AT THE TIME WE SUBMITTED OUR REPORT TO DOT FOR COMMENT FAA HAD NOT TAKEN FINAL ACTION ON ANY OF THE EPA PROPOSALS. SINCE THEN, HOWEVER, ACTIONS HAVE BEEN TAKEN ON 7 OF THE 11 PROPOSALS. IT ADOPTED THE PROPOSED MINIMUM FLAPS APPROACH, AND PORTIONS OF THE PROPELLER-DRIVEN SMALL AIRPLANES AND THE RETROFIT PROPOSALS. FAA HAS DECIDED NOT TO ISSUE FOUR OF THE PROPOSALS AND NO FURTHER ACTION HAS YET BEEN TAKEN ON THE REMAINING FOUR.

ALTHOUGH FAA IS REQUIRED BY THE ACT TO ADOPT, MODIFY, OR REJECT EPA'S PROPOSED REGULATIONS WITHIN A REASONABLE TIME, IT HAS SOMETIMES TAKEN FAA 2 YEARS TO TAKE SUCH

ACTION. THEREFORE, WE RECOMMENDED IN OUR REPORT THAT THE ACT BE AMENDED TO REQUIRE THAT FAA ACCEPT, MODIFY, OR REJECT EPA PROPOSED REGULATIONS WITHIN A SPECIFIED TIME AND IF MODIFIED OR REJECTED FAA SHOULD PROVIDE THE REASONS FOR SUCH ACTIONS.

LACK OF COORDINATION

OUR ANALYSIS OF COORDINATION BETWEEN THE TWO AGENCIES SHOWED THAT SERIOUS PROBLEMS HAVE HINDERED THE DEVELOPMENT OF AVIATION NOISE CONTROL REGULATIONS. AN EXAMPLE OF THE LACK OF COORDINATION CONCERNS THE EFFORTS TO DEVELOP AN AIRPORT NOISE REGULATION.

IN JULY 1975, FAA PUBLISHED A SOLICITATION OF PUBLIC COMMENT ON POTENTIAL DIRECTIONS FOR AN FAA AIRPORT NOISE POLICY IN THE FEDERAL REGISTER. EPA OFFICIALS TOLD US THEY HAD NO PRIOR KNOWLEDGE THAT FAA WAS GOING TO PUBLISH THIS NOTICE. A JULY 11, 1975, MEMORANDUM BY EPA'S DEPUTY ASSISTANT ADMINISTRATOR FOR NOISE CONTROL PROGRAMS, CONCERNING THE LACK OF COORDINATION WITH FAA REGARDING THIS NOTICE, STATED IN PART:

"I CAN ONLY VIEW THIS NOTICE (FAA'S AIRPORT PROPOSAL) WITH NC PRIOR CONSULTATION WITH EPA, AS BEING ONE MORE INDICATION THAT THE FAA HAS NO INTENTION OF COOPERATING AND COORDINATING WITH EPA ON ACTIONS RELATIVE TO AVIATION NOISE ABATEMENT. IN FACT, THE FAA ACTION, UNILATERAL AND NOT IN CONCERT WITH

EPA, COULD BE VIEWED AS BEING AN EFFORT ON THE FAA'S PART TO BUILD A POSITION TO COUNTER EPA'S PROPOSAL."

ALTHOUGH RECENT CORRESPONDENCE INDICATES SOME IMPROVEMENT IN THE RELATIONSHIP BETWEEN THE TWO AGENCIES IN DEALING WITH THE AVIATION NOISE PROBLEM, EPA'S RESPONSE TO OUR REPORT INDICATES THAT THE PROBLEM STILL EXISTS. THERE IS AN OBVIOUS FUNDAMENTAL DIFFERENCE OF PHILOSOPHY ON HOW BEST TO CONTROL AIRCRAFT NOISE AND WHETHER THE ACTIONS TAKEN HAVE BEEN EFFECTIVE. IN EPA'S VIEW, FAA REGULATIONS APPLY ONLY TO THE NOISE LEVELS BEING ALREADY ACHIEVED BY IN-USE AIRCRAFT, RATHER THAN REQUIRING MORE STRINGENT STANDARDS THAT COULD BE ACHIEVED BY INCORPORATING NEW TECHNOLOGY WHICH HAS BEEN DEMONSTRATED AND IS AVAILABLE. UNTIL THESE FUNDAMENTAL POLICY DIFFERENCES ARE SETTLED, PROGRESS IN THE AVIATION NOISE AREA IS NOT LIKELY TO OCCUR.

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MR. CHAIRMAN, IN SPITE OF ALL THE PROBLEMS WE HAVE DISCUSSED CONCERNING THE SLOW IMPLEMENTATION OF THE NOISE CONTROL ACT AND THE LACK OF COORDINATION, IT IS IMPORTANT TO RECOGNIZE THAT SOME OF THE ACTIONS TAKEN BY THE ENVIRONMENTAL PROTECTION AGENCY HAVE BEEN SIGNIFICANT IN ADDRESSING THE NOISE POLLUTION PROBLEM. FOR EXAMPLE:

--THE NOISE CONTROL REGULATIONS ON INTERSTATE MOTOR CARRIERS AND RAIL CARRIERS WILL IMPOSE LIMITS ON

THE PREVIOUSLY UNCONTROLLED GROWTH OF THESE NOISE SOURCES UNTIL NEW PRODUCT NOISE EMISSION STANDARDS CAN BECOME EFFECTIVE.

--RESEARCH EFFORTS HAVE RESULTED IN IDENTIFYING THE KIND AND EXTENT OF EFFECTS OF NOISE ON THE PUBLIC HEALTH AND WELFARE, AND PROVIDED THE FRAMEWORK FOR ASSESSING, FOR THE FIRST TIME, THE NATIONAL IMPACT OF NOISE FROM VARIOUS TYPES OF PRODUCTS.

--EPA'S 1973 "REPORT ON AIRCRAFT/AIRPORT NOISE," MENTIONED EARLIER, IDENTIFIED MAJOR ACTIONS WHICH EPA BELIEVED THE FEDERAL GOVERNMENT SHOULD TAKE TO HELP SOLVE THE AVIATION NOISE PROBLEM. SUBSEQUENTLY THE EPA DEVELOPED AND SUBMITTED 11 AIRCRAFT NOISE ABATEMENT PROPOSALS TO THE FAA.

--A MODEL STATE ORDINANCE AND A MODEL COMMUNITY ORDINANCE HAS BEEN PREPARED WHICH WILL BE USEFUL IN THE DEVELOPMENT OF NOISE CONTROL ORDINANCES OR LEGISLATION SUITED TO STATE OR LOCAL NEEDS AND CONDITIONS.

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED STATEMENT. WE SHALL BE GLAD TO RESPOND TO ANY QUESTIONS YOU OR MEMBERS OF THE SUBCOMMITTEE MAY HAVE.