

N-96-01
II-A-665

Mr. Ropes

10-17-81

MEMORANDUM

SUBJECT: Phase-out of the EPA Noise Program

FROM: Kathleen M. Bennett
Assistant Administrator for
Air, Noise and Radiation

TO: Anne M. Gorsuch
Administrator

57 01 19 125 5
12/1
-S&HD ANH-490

I am pleased to inform you that I have recently approved a plan submitted by Acting Director John Ropes of the Office of Noise Abatement and Control (ONAC) that provides for an accelerated phase-out of the EPA Noise Control Program. The plan encompasses all of the current activities of ONAC including the regulatory functions.

The key elements of the plan are:

1. To complete by January 31, 1982, all unfinished business not specifically tied to the transfer of responsibilities to the States.
2. To stop regulatory action on 4 products heretofore identified as major sources of noise; withdraw 2 notices of proposed rulemaking on wheel and crawler tractors and buses; commence immediate action to de-regulate garbage trucks (compactors); and curtail other minor amendments to current rules.
3. To leave in place major (in-use) surface transportation rules on railroads and interstate motor carriers that would be continued under the current Act or either version of the legislation now pending; these are enforced by the Department of Transportation—not EPA. Recently, we negotiated a tentative agreement with the railroad industry that alleviates any further regulatory responsibility in that area.
4. To leave in place four product regulations now on the books. They are:
 - a) Medium and Heavy Duty Trucks—a two stage regulation. Products are now regulated at 83 dB level; we plan to defer the 80 dB level until 1986 or indefinitely.

811-471/JRopes:dh:04-2,1108:7777:30-9-81
Rewritten - JReyes;dh:10-13-81

- b) Motorcycles. We plan to withdraw a technical enforcement procedure amendment.
- c) Air Compressors. This is a relatively inconsequential regulation that would become controversial if we attempt to de-regulate.
- d) Hearing Protector Labeling Regulation.

The Office of Air, Noise and Radiation Enforcement is now preparing a final rule terminating Federal enforcement activities on the above regulations—leaving to industry the responsibility for complying with the regulation(s). In the future no reports will be required and therefore no staffing requirements.

One note of caution should be raised. We may encounter other court action from industry—buses for example—when segments of that industry might want pre-emptive Federal regulation. In this case, approximately 80% of the bus population affected by the regulation is local in character, i.e., intracity/urban transit buses and school buses. State and local governments can deal with any bus noise problems through in-use regulations and "Buy Quiet" purchase specifications. On the other hand, intercity over-the-road carriers (representing about 20% of the bus fleet) that might require national uniformity of treatment have little impact on populated areas.

Legal proceedings, should they occur, would delay our plans to complete phase-out of the noise regulatory activities by 9/30/82. Further implementation of this accelerated plan is contingent on relief from OMB regarding Executive Order 12291 that would require Regulatory Impact Analyses which include cost benefit studies.

At this time we are not sure as to whether deferring action on the 80 dB truck regulation exempts us from this Order or whether the motorcycle regulation is a "major rule" although its economic impact is less than \$100 million. We believe both regulations are exempt but have referred the question to the General Counsel for review.

Provided we do not have to conduct Regulatory Impact Analyses on either regulation and no further court actions are taken, we can completely phase out the Noise Program by the end of FY 1982. I will keep you informed on our progress as the major obstacles are overcome.

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