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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 205

(AH-FRL 2370-6)

Noise Emission Standards: Truck-Mounted Solid Waste Compactors

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document rescinds the noise emission regulation for Truck-Mounted Solid Waste Compactors (Subpart F of 40 CFR Part 205) issued under the authority of Section 6 of the Noise Control Act of 1972 (42 U.S.C. 4903). Notice of Intent to rescind this regulation was published in the Federal Register on December 1, 1982 (44 FR 54111).

This action is being taken based on a consideration of the costs this regulation imposes on the compactor manufacturing industry, prevailing conditions of the national economy in general, and the compactor manufacturing industry in particular, and the President's policy to reduce the burdens of Federal regulation.

DATE: This document is effective August 15, 1983.

FOR FURTHER INFORMATION CONTACT: Louise P. Clerch, Office of Air, Noise and Radiation (ANR-445), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 302-2235.

SUPPLEMENTARY INFORMATION:

1.0 Regulatory History

In accordance with Section 5(b)(1) of the Noise Control Act of 1972, the Administrator of the Environmental Protection Agency, on May 28, 1973 (40 FR 23105) identified Truck-Mounted Solid Waste Compactors (TMSWC), more commonly referred to as "garbage trucks" or "compactors," as a major source of noise. This identification was made, in part, on the basis that, as special auxiliary equipment for trucks, the regulation of compactors would complement the existing Federal noise emission regulation for medium and heavy trucks (40 CFR Part 205, Subpart B).

Under the authority of Section 6(a)(1) of the Act, the Administrator published, on August 20, 1977, a Notice of Proposed Rulemaking that specified "not-to-exceed" noise emission levels for newly manufactured compactor vehicles (42 FR 43226). The Agency published a Notice of Final Rulemaking on February 1, 1978 (44 FR 36524).

In late 1980, several compactor manufacturers informed the Agency that the regulation placed testing and reporting requirements upon them that, in their opinion, were excessively burdensome and costly. Based on meetings with the industry, as well as information obtained through practical experience with this regulation by several compactor manufacturers and by EPA's enforcement personnel, the Agency agreed it should explore alternative testing and compliance provisions. Accordingly, on February 12, 1981, the Administrator issued a Notice of Reconsideration (46 FR 12975) that suspended all enforcement of the regulation until EPA could reassess the testing and reporting requirements. However, after full consideration of the issues involved, the Agency proposed to rescind the regulations.

2.0 Considerations for Rescission

As outlined in detail in the proposed rescission notice, since promulgation of the compactor regulation a number of developments have occurred, including: (a) The economic position of the TMSWC industry has weakened substantially since promulgation of the regulation, unit sales having declined nearly 25 percent between 1979 and 1981; (b) discussions with the industry have revealed that many compactor manufacturers regard each combination of compactor body and truck chassis as unique, which results in significantly higher testing costs than were originally anticipated by the Agency; (c) a major portion of the TMSWC industry has indicated that it no longer desires the protection of national uniformity of treatment provided by the presumption provisions of the Act; and (d) bills to amend the Noise Control Act passed both the House and Senate which would explicitly remove the Agency's authority to regulate this product. However, no bill was enacted into law before the end of the Congressional session.

Section 9(c)(1) of the Noise Control Act directs the Administrator to take into consideration, among other factors, the cost of compliance in the establishment of regulations for products which have been identified as major sources of noise. Accordingly, the Administrator has concluded that economic considerations are relevant in deciding to rescind the noise emission regulation for truck-mounted solid waste compactors. Based on the above considerations as discussed in more detail in the proposal, EPA has concluded that the costs of compliance with this regulation are excessive.

3.0 Environmental Considerations

In taking this action, the Administrator has taken into consideration the nature of compactor noise impacts and the substantial growth in local noise control programs and ordinances since this product was identified as a major noise source for Federal regulation. For the most part, noise impacts from compactors are highly localized, occurring primarily along local roads and streets. Approximately 50% of the compactors in use are under the direct control of State and local governments through government waste collection services, and much of the private waste collection sector is subject to controls on routing, hours of operation, and number of trucks in operation.

The Administrator believes that, absent the industry's need for uniform national noise control standards, the control of compactor noise by State and local governments through regulatory initiatives and programs such as "Buy-Quiet" has the potential to mitigate any adverse environmental impacts that might result from rescission of the TMSWC noise emission regulation.

4.0 Docket Summary

There were a total of 13 responses to the Agency's proposed rescission; 7 comments were received from the industries affected and their trade association, and 6 comments were received from State or local governments or their respective associations. The 13 commenters were all in agreement with the proposed rescission. The Administrator believes that the unanimous concurrence by respondents and the rather limited response to this action per se further indicates that a decision to rescind this regulation is the proper course by the Agency.

In summary, State and local respondents to the proposal basically felt that regulation of these noise sources is a State and local problem which can best be handled at that level, and that State and local governments have the means, in cooperation with industry, to mitigate any adverse environmental impacts that might result. Some of the State and local respondents indicated that Federal cooperative involvement in noise control should continue in order to help provide either technical or financial assistance.

Industry responses reiterated the Agency's rationale in the proposal to rescind the regulation. The trade association for the industry did express concern that the Agency should not be

supportive of a "Buy-Quiet" program for State and local governments. The Agency, however, feels that a "Buy-Quiet" program is a viable non-regulatory alternative through which State and local governments can, working cooperatively with industry and their counterpart State and local governments, effect the purchase of quieter products. The Agency remains in full support of such a voluntary program.

5.0 List of Subjects in 40 CFR Part 205

Labeling, Motor vehicles, Noise control, Reporting and recordkeeping requirements.

6.0 Conclusions

It is the Administrator's judgment that the Federal Noise Emission Regulation for Truck-Mounted Solid Waste Compactors (40 CFR Part 205, Subpart F) should be rescinded.

This action is expected to save societal resources estimated at \$39 million in equivalent annual costs, and enable the compactor manufacturing industry to avoid an estimated \$15 million annually in engineering and testing costs. Further, the Administrator believes that it is within the ability of

State and local governments to control the noise of these products, and thereby substantially mitigate any adverse environmental effects that might result from the rescission of this regulation.

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory Impact Analysis. This action is not a major regulation as it proposes to rescind a regulation, and because:

(1) It will not have an annual adverse effect on the economy of \$100 million or more;

(2) It will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) It will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to the provisions of 5 U.S.C. 551, *et seq.*, I hereby certify that this

action will not have a significant economic impact on a substantial number of small entities, because it withdraws the need for small entities to implement noise control features on Truck-mounted Solid Waste Compactors.

This final action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB, and any EPA response to those comments, are included in the public docket for this action.

For the reasons set forth in the preamble, EPA, hereby removes the Federal Noise Emission regulation for Truck-Mounted Solid Waste Compactors (Subpart F of 40 CFR Part 205).

Authority: Section 6 of the Noise Control Act of 1972, 42 U.S.C. 4906.

Dated: July 11, 1983

William D. Ruckelshaus,

Administrator.

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