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Columnist and Member Combine to Distinguish "Buy Quiet" Approach From Federal Regulation

In a column carried by several newspapers during November 1980, the well-known commentator James J. Kilpatrick labeled the federal regulation of trash compactor (truck) noise levels "pure garbage." This column elicited a response from Ray Hughes, the Deputy Purchasing Agent of Shelby County, TN and one of NIGP's most enthusiastic members. In his response to Kilpatrick, Hughes advanced the Buy Quiet approach as a preferable alternative to federal regulation. Mr. Hughes' response caught Kilpatrick's eye and became the basis of a second column on garbage truck noise in January.

To help you and your fellow government officials understand how Buy Quiet differs from regulatory approach to noise control, we have reprinted both Kilpatrick's columns below.

Regulation of Truck Noise Is "Pure Garbage"

by James J. Kilpatrick

WASHINGTON -- Consider, if you please, the garbage truck. It is being driven by Big Brother now. And therein lies an instructive tale of how we have rumbled into the mess we are in.

On Oct. 1 a new regulation of the Environmental Protection Agency came into effect. It mandates a certain level of permissible noise on the part of compacting garbage trucks. The regulation arises from the Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978. In one nice, neat bundle this matter ties many odds and ends together.

Sen. John Danforth, R-Mo., the leading antagonist of the EPA's regulation, has mused aloud: How could anyone vote against bills to promote "noise control" and "quiet communities"? It was politically impossible. Under pressure from consumer activists (and from some business spokesmen also), the House voted 356-32 and the Senate 75-5 in favor of the 1972 act. The 1978 bill passed by voice vote, without an apparent dissent.

IN RETROSPECT, the two pieces of legislation may be seen as classic examples of federal expansion at the expense of state and local responsibilities. The 1972 law had a grand purpose and a large verb. The act was to free the people from noise that "jeopardizes health and welfare." To jeopardize is to expose to imminent danger, to imperil. The act gave the EPA broad powers to regulate "major sources" of noise.

Now, it would seem to many of us, perhaps, that a garbage truck does not truly jeopardize or imperil public health.

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A Better Garbage Truck

by James J. Kilpatrick

WASHINGTON -- Back in November I unloaded a curmudgeonly column complaining about a new national regulation governing the noise levels of garbage trucks. I said it was a petty, stupid, nit-picking regulation, destructive of state and local responsibilities, and all of those comments stand.

But I return to the topic because of a letter from Memphis. There is indeed a better way of coping with the problem: It is the way of the marketplace in a free economy.

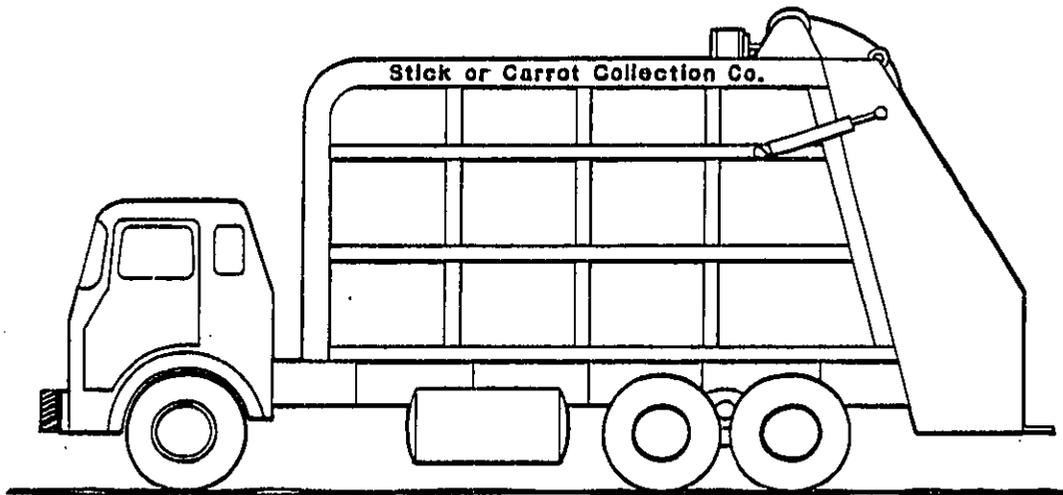
The letter comes from Raymond Hughes, deputy purchasing administrator for Shelby County, Tenn. The answer to the noise problem, in his view, lies in the "Buy Quiet" program initiated by the National Institute of Governmental Purchasing and the National League of Cities.

UNLIKE THE FEDERAL regulation, which is complexity itself, this program is simplicity itself. It rests solidly upon the ancient law of supply and demand. Local purchasing agents create a demand for quieter garbage trucks; and perceiving that demand, manufacturers undertake to supply it.

Mr. Hughes sums up the procedure succinctly: "Cities and counties that want quieter trucks ask for them; those that do not, don't."

The Buy Quiet plan was launched about 18 months ago. In this period, the National Institute of Governmental Purchasing has begun to establish product specifications not only for garbage trucks, but for many other pieces of machinery also. Shelby County, for example, sought bids on 10 "quieter" lawnmowers.

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"Pure Garbage" (cont. from page 10, Col. 1)

Compared to jet planes and police sirens, a compactor scarcely qualifies as a "major source" of noise. Indeed, a survey by the EPA's own consultants of 2,000 persons in 24 urban neighborhoods turned up only four complaints of garbage truck noise.

Nevertheless, the EPA conjured up some impressive statistics. The agency solemnly found that 19,650,000 persons are regularly exposed to excessive noise levels because of the refuse vehicles. Federal regulation, it was concluded, would reduce that number to 6 million persons by 1991. Cities could not be trusted to deal with this peril by local ordinance. After all, the sleep of 13.8 million persons was being disturbed nightly. Only the federal government could protect our repose.

Thus came the regulation. As of Oct. 1, no garbage compactor may be sold in interstate commerce if it creates noise in excess of 79 decibels. The noise level is to be defined by testing a compactor on a level concrete pad 150 feet in diameter, free of rain, snow or gravel, with microphones placed 7 meters distant from a warmed-up engine, the wind velocity not in excess of 19 kilometers an hour. And so forth, and so forth, and so forth.

IT IS NEEDLESS to dwell upon the reports to be made, the forms to be filed, the

records to be kept. These you can imagine. The act provides for a fine of \$25,000 a day, or one year in prison, or both, for any manufacturer whose garbage truck produces 80 decibels of noise. For a second offense, the penalties may be doubled. As of July 1982, the regulation mandates a further reduction to 76 decibels.

Metaphorically speaking, if you will forgive me, this is garbage. Pure garbage. The EPA regulation runs to 23 pages. An accompanying analysis runs to 300 more. Enforcement of the act will impose added costs upon purchasers of the trucks of \$21.3 million a year. That is for starters. The EPA defensively puts the costs at 50 cents per household per year.

Costs and benefits to one side, this petty, stupid, nit-picking regulation based almost entirely upon gauzy conjecture as to "sleep and activity interference" -- offers one more instance of a bureaucracy gone berserk. Such cities as New York and San Francisco have coped with the issue by local ordinance. Other cities have imposed curfews against refuse collection before a certain hour. This is simply not a national problem. Maybe an incoming conservative Congress will look at such excesses, and quietly dispose of the trash.

"Better Truck" (cont. from page 10)

"We had no trouble in obtaining a sufficient number of bids," Mr. Hughes reports, "and the prices we paid were no higher than before. We plan to follow the same approach in future purchases of jackhammers, garbage trucks and other noisy items."

New Orleans has undertaken some pioneer efforts in this direction. An environmental report from the National League of Cities advises that such cities as Chicago, Milwaukee, New York, Pittsburgh and Austin also are purchasing quieter models of lawn equipment, air compressors and pavement breakers. In Iowa, the Scott County Purchasing Association is working with the city of Davenport and nine other units to buy quiet products only. Forty purchasing units in north-central Texas have established a purchasing cooperative. In Minnesota, the league identifies Minneapolis, St. Paul and Bloomington as "Buy Quiet" cities. Some of the programs also embrace such indoor noisemakers as vacuum cleaners and typewriters.

Surely this approach is infinitely preferable to the heavy-handed one taken by the Environmental Protection Agency in the matter of garbage trucks. If you recall, the EPA went at this essential local problem with the politesse of a Black Angus bull. The feds roared in with reports, studies, consultants, experts, statisticians and bureaucrats of high and low degree. We had draft regulations, comments upon the draft regulations, promulgation of revised regulations, and in October of last year a final regulation. The EPA's idea of how to get quieter garbage trucks is to threaten manufacturers with a \$25,000 fine and a year in prison, or both, if henceforth they market a truck that produces noise in excess of 79 decibels.

IF WE BELIEVE in the marketplace system, why do we not give the system a reasonable chance to work? Instead of imposing uniformity by federal decree, why do we not try variety for a change? One of our cherished principles is "local responsibility." Why not abide by that principle? Let our cities decide for themselves whether they want their local parks mowed by lawnmowers that go putt-putt-putt, or

by mowers that go KAVOOM, KAVOOM, KAVOOM.

To be sure, there is a place for national regulation of products that might be truly dangerous to the public health or safety. Even the most dedicated friends of free enterprise stop short of condoning botulism in the vichyssoise. But a decent respect for federalism ought to teach us that national regulation should be the last resort, not the first.

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W.S.S.C. Buys (cont. from page 9)

employer recently purchased 7 industrial backhoe-loader-tractor combinations, specified that the equipment purchased would have a maximum noise level, when operating, of "81 decibels (A Scale) when measured in accordance with SAE J88b".

WSSC Buyer Roy Ashlin, who worked with Brady Moore of the Mobile Equipment Division to develop the specifications, used Buy Quiet Product Information Supplement No. 7 (for wheel and crawler tractors) to select an appropriate maximum noise level and to word the noise level requirement. The noise level that Ashlin and Moore included in the specification was the median noise level for "wheel loader" type tractors, and not surprisingly nearly half of WSSC's usual bidders were able to offer models that complied with the noise level requirement.

The bid tabulations, with noise level in accordance with SAE J88b, are shown below:

<u>Company</u>	<u>Amount</u>	<u>Noise Level (dBA)</u>
A	\$165,782.62	Does not exceed 81
B	180,243.00	Does not exceed 81
B-alt.	200,858.00	Not provided
C	195,064.45	77.4
D	195,774.74	Does not exceed 81
E	195,909.00	77.4
F	196,893.04	Does not exceed 81
G	201,659.92	77.4
H	208,495.00	Not provided
I	213,177.79	Does not exceed 81
J	216,650.00	Does not exceed 81