



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 3 1987

OFFICE OF  
EXTERNAL AFFAIRS

MEMORANDUM

SUBJECT: Possible Noise Regulation  
FROM: R. A. Edwards  
Deputy Assistant Administrator  
for External Affairs  
TO: Don Clay  
Deputy Assistant Administrator  
for Air and Radiation

D-96-01  
II - A - 646

In keeping with our January 1987 agreement, relative to your office handling the development of any additional regulatory measures required under the Noise Control Act of 1972, as amended, I believe it is appropriate to pass on to you several items we have received that may possibly require the issuance of new Federal regulations in the noise arena.

First, a request was made to the Administrator on August 12, 1986, by the City of Seattle, for a "special local determination" under 40 CFR 201 to permit them to regulate a railyard located in the City of Seattle. Although this type regulation is permitted under the Noise Control Act, the agency has not issued any guidance in the Federal Register as to exactly how it is to be accomplished. Our contact with Seattle leads us to the conclusion that this regulatory problem now needs to be addressed. A copy of the request and the interim response from EPA is attached for your information.

Second, during the October 1986 term of the Supreme Court, the State of Delaware appealed a Third Circuit decision in a railyard case to the court. The case was accepted by the Supreme Court and subsequently they vacated the Third Circuit decision and remanded the case back to them for further consideration. During November 1986, the firm of Verner, Lipfert, Bernhard, McPherson and Hand, representing Norfolk Southern Corporation, contacted the Solicitor General and indicated that if Delaware were given the right by the courts to regulate railyards by the issuance of state regulations, the stage would "... be set for a return to court to compel EPA to issue the missing [noise] regulations." This obviously will require a great deal of regulatory activity in the very near future. A copy of the appropriate documents related to this matter are attached for your information.

If I can provide you with additional information or assistance, please do not hesitate to contact me on 382-5053.

Attachments