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HOUSE OF REPRESENTATIVES

REPORT
No. 97-85

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QUIET COMMUNITIES ACT

MAY 10, 1981.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce,
submitted the following

REPORT

[To accompany H.R. 3071]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3071) to amend the Noise Control Act of 1972, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and substitute:

That the Noise Control Act of 1972 is amended as follows:

(1) Section 1 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Quiet Communities Act'."

(2) Section 2(a)(3) is amended by striking out "deal with major noise sources" and all that follows down through the period at the end thereof and substituting: "assure uniform treatment of certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce which are major noise sources."

(3) Section 2(b) is amended by striking out "for products distributed in commerce," and substituting: "for certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce."

(4) Section 3(b) is amended by striking out "or section 8".

(5) Section 5(b) is amended by inserting "are referred to in section 6(a)(1) and which" after "which".

(6)(A) Section 6(a)(1)(C) is amended by striking out clauses (i) and (iv), by redesignating clauses (ii) and (iii) as (i) and (ii) respectively, and by inserting the following before the period at the end of clause (ii), as so redesignated: "designed for use in transportation equipment".

(B) Section 6(a)(1) is amended by adding the following at the end thereof: "Such regulations shall not apply to the products to which subpart F of part 205 of title 40 of the Code of Federal Regulations (as promulgated before the date of the enactment of this sentence) applies."

(C) Except as provided in subparagraph (B), any rule or regulation under section 6 of the Noise Control Act of 1972 which was promulgated in final form before the date of the enactment of this Act and which is applicable to products referred to in section 6(a)(1) of that Act, as amended by this subsection, shall remain in force and effect after the date of the enactment of this Act until such time as the rule or regulation is amended or otherwise modified under such section 6, as amended by this Act. Nothing in this subparagraph shall be construed to validate any otherwise invalid rule or regulation under such section 6 which was promulgated in final form before the date of the enactment of this Act, and nothing in this subparagraph shall be construed to provide that any unlawful aspect of such rule or regulation shall be treated as lawful.

(7) Section 8 is repealed.

(8) Section 10 is amended by striking out paragraphs (3) and (4).

(9) Section 10(b) is amended by striking out "(3)," in paragraph (1) and by striking out "(1), (2), and (3), and (4)" in paragraph (2) and substituting "(1) and (2)".

(10) Section 11(a) is amended by striking out "(3)," in each place it appears.

(11) Section 11(a)(2) is amended by inserting the following after "\$10,000": "(reduced by the amount of any penalty imposed under subsection (f))".

(12) Section 11 is amended by adding the following at the end thereof:

"(f) The Attorney General of any State may bring a civil action, in the name of such State, in the appropriate district court of the United States to impose a civil penalty against any person who violates any provision of section 10. In any such action the court may impose a civil penalty of not more than \$10,000 per day of such violation (reduced by the amount of any penalty imposed under subsection (a)(2)). The provisions of section 12(b) shall apply for purposes of actions brought under this subsection in the same manner as such provisions apply for purposes of section 12."

(13) Section 12 is amended—

(A) by striking out "(a)" in subsection (a)(1) and substituting "(f)"; and

(B) by striking out "(3), (4)," in subsection (f).

(14) Section 13(a) is amended by striking out "or section 8".

(15) Section 14(b)(2) is amended by striking out "under sections 6, 7, and 8 of this Act" and substituting "under section 6 or 7 of this Act".

(16) Section 16(a) is amended by striking out "or any labeling regulation under section 8 of this Act".

SEC. 2. Section 19 of the Noise Control Act of 1972 is amended by striking out "\$15,000,000 for the fiscal year ending September 30, 1979" and substituting "\$7,300,000 for each of the fiscal years 1982 and 1983".

PURPOSE AND SUMMARY

The reported bill amends section 19 of the Noise Control Act of 1972 to authorize appropriations in the amount of \$7,300,000 to carry out the provisions of that Act for each of the fiscal years 1982 and 1983. The bill limits regulatory authority under the Act to certain carriers and certain transportation equipment. The title of the Act is changed to the "Quiet Communities Act". Conforming amendments are made throughout the Act.

BACKGROUND AND NEED FOR THE LEGISLATION

Congressional concern over environmental noise began in the 1950's with the advent of the supersonic aircraft boom and later developed into concern for the possible effects of all noise sources on human health. The Noise Control Act of 1972 was enacted in recognition of the growing danger of uncontrolled noise to the public health and welfare.

The purpose of the Act is to provide for effective coordination of Federal research activities, to authorize the establishment of Fed-

eral noise emission standards for products distributed in commerce, and to provide the public with information regarding noise control methods and procedures available to local communities. The Administrator of the U.S. Environmental Protection Agency (EPA) has primary responsibility for carrying out the provisions of this Act.

The Congress was aware, however, that a Federal noise regulatory program was not adequate to control noise at the local level. There was a need to shift the focus of the Federal program towards the state and local governments in order to assist communities in their efforts to control noise. The Quiet Communities Act Amendments of 1978 were enacted in response to the need for a strengthened state and local government noise control effort.

These amendments direct the Administrator of EPA to provide local communities with technical and financial assistance to establish their own noise control programs. These programs include the "Each Community Helps Others" program (ECHO), the Buy Quiet procurement program, state and local agreements to initiate programs, demonstration of noise control technology including noise and energy insulation, public information, and the establishment of Regional Technical Centers in participating universities. These programs rely largely on local expertise and personnel in the community such as university staff and volunteer retired persons.

The EPA noise program budget and personnel resources have been divided approximately evenly between the regulatory activities carried out under the original provisions of the Act, and the state and local support activities carried out under the Quiet Communities Act amendments. In fiscal year 1981, the combined program activities were supported by an appropriation of approximately \$13 million.

In March of 1981, the President transmitted to Congress a budget request of \$2,200,000 for fiscal year 1982 and recommended the discontinuation of the Federal noise control program after fiscal year 1983. The proposed budget recommended that noise control efforts be carried out chiefly by state and local governments.

The Committee shares the President's concern for achieving budget reductions in existing programs. However, the Committee disagrees with the recommendation to discontinue the program altogether. The Congress has repeatedly upheld the Federal role to assist communities in their efforts to protect the public health and welfare from the adverse effects of uncontrolled noise. Support for the federal role can be found in the record of the 95th Congress' consideration of the Quiet Communities Act Amendments and in the 96th Congress' consideration of the Aviation Safety and Noise Reduction Act. This Committee upholds the findings made by previous Congresses that noise presents a danger to public health and welfare and that the Federal commitment toward minimizing that threat should not be withdrawn, even in the face of budget reductions.

Given the budget restrictions and the Committee's commitment to providing technical and financial assistance to state and local governments to control noise, the Committee was prepared to eliminate the regulatory program under the existing law. It is the Committee's view that, if the program was to be reduced as drastically as proposed by the administration, then such a cut should be ac-

accompanied by changes in the law that would eliminate the EPA's responsibility under the regulatory provisions of the Act. Clearly, the EPA could not continue to fulfill all its obligations currently supported by an appropriation of \$13 million with a new budget of \$2.2 million. At the Subcommittee level, there was unanimous agreement that State and local programs should be continued in lieu of the regulatory program inasmuch as there would not be sufficient funding for both aspects of the Federal noise program.

However, the Committee is aware that the repeal of regulatory authority under the Act would have the effect of removing Federal preemption of state and local noise requirements. This action would allow states and local governments to enforce their own, often varying, laws and regulation to control noise sources. The Administration's fiscal year 1982 budget explanation appears to support that inevitability as noted in the March 1981 "Summary of 1982 budget", Page 53:

We plan to phase out the EPA noise control program by the end of 1982. This decision results from our determination that the benefits of noise control are highly localized and that the function of noise control can be adequately carried out at the state and local level without the presence of a Federal program. This orderly phaseout of present activities is essential if we are to facilitate an effective assumption of noise control responsibilities by state and local noise programs.

The Committee is aware, however, that a myriad of conflicting state and local requirements could increase the production and carrying costs of certain carriers and transportation equipment manufacturers and operators. It appeared as though the Administration's budget proposal would result in a conflict between two objectives held by both the Administration and the Members of the Committee. These objectives are to (1) reduce the cost to industry of burdensome regulations; and (2) allow states and localities to have a greater degree of control in solving their own noise problems.

The Committee recognized that the majority of industries currently regulated under the Act preferred the continuation of Federal requirements over the prospect of a multiplicity of state and local requirements.

It is not clear to the Committee whether the Administration is unsympathetic to or unaware of the potentially adverse economic effect imposed on industry by removing Federal preemption. However, the Committee believes that, under the current economic climate, the industries regulated under this Act have a sufficient number of regulatory burdens without providing a myriad of additional regulations that would result by removing the authority for nationally consistent regulations. Similarly, for those few industries who considered the national standards burdensome, the Committee agreed to narrow the EPA's authority so that these industries were no longer covered by Federal preemption.

However, in order to maintain a meaningful regulatory program, the Committee agreed, with bi-partisan support, to authorize funding in excess of that requested by the Administration.

Therefore, the Committee recommends an authorization of \$7,300,000 for each of the fiscal years 1982 and 1983 to carry out the remaining Federal noise control program.

With regard to regulatory activities, the EPA has promulgated a limited number of noise emission regulations which include standards for medium and heavy trucks, portable air compressors, railroad locomotives and yards, motorcycles, interstate carriers, truck-mounted trash compactors and the labeling of hearing protectors. The EPA has also identified additional noise sources for regulation which include products such as lawnmowers under Section 6(a)(1)(C)(iii), and rock drills, wheel and crawler tractors, and truck-mounted refrigeration units, all under Section 6(a)(1)(C)(i).

As discussed above, the Committee agreed to redirect and more narrowly define the scope of the EPA regulatory authority to control noise. The provisions adopted by the Committee restrict rule-making to certain carriers and certain transportation equipment. Specifically, the EPA will no longer have authority to regulate construction equipment as formerly provided under Section 6(a)(1)(C)(i), electronic or electrical equipment as formerly provided under Section 6(a)(1)(C)(iv), or truck-mounted trash compactors under Section 6(a)(1)(ii). The Committee directs the EPA to focus its limited resources on the continued regulation of transportation related noise sources including rail operations, equipment and facilities as provided under Section 17, motor carrier operations and equipment as provided under Section 18, and manufacture of transportation recreational vehicles, including motorcycles, as provided under Section 6. The Committee strongly recommends against the promulgation of new regulations for products identified as noise sources, such as lawnmowers, and expects no further regulatory action on noise sources identified under those sections now stricken from the Act. The Committee believes that narrowing and refocusing the EPA's authority to regulate will result in a more efficient and effective Federal noise control program which is compatible both with this Committee's objectives and the concerns of those industries regulated under this Act.

With regard to existing regulations, it is the Committee's intention that all such regulations promulgated under Section 6 in categories that have been retained in the law, with or without modification, be considered in full force and effect and need not be re-promulgated. Further, it is not the Committee's intent to affect or prejudice the outcome of any administrative or judicial challenge to any rule or regulation promulgated under any section of the Act before the date of enactment. Nor is it the intent of the Committee that Section 6(C) of H.R. 3071 be interpreted as ratification of any rule or regulation promulgated under Section 6 or any other section of the Act.

With regard to other regulatory related activities under the Act, the Committee believes that the promulgation of aircraft noise regulations has not been carried out as expeditiously as this Committee or the Congress intended. The Committee recognizes that the EPA role is limited to advising the Federal Aviation Administration (FAA) which has the sole responsibility for promulgating aviation related regulations. The Committee believes, however, that the recommendation of aircraft noise regulations should be a priority in the EPA noise program effort and urges the EPA to

maintain sufficient personnel and budgetary resources to carry out this obligation under the Act.

However, the Committee has been concerned in the past, and continues to be concerned, that the FAA has not responded promptly to EPA's recommended regulations. On several occasions, the FAA has been in violation of the 90-day deadline for responding to EPA recommended aircraft noise regulations. The Committee urges the FAA to take steps to avoid future delays in responding to the EPA recommendations.

The Committee believes that the technical and financial assistance program for assisting state and local noise control efforts as provided for under the Quiet Communities Act Amendments has been extremely successful in controlling noise at the local level. To date, the EPA has provided technical and financial assistance to over sixty communities across the country in the short time this program has been in effect. The Committee recommends that this program continue to be carried out as diligently as it has since enactment.

However, the Committee recognizes that reduced Federal funding and the Administration's recommendation to discontinue the EPA program office as recommended by the Administration may have the effect of reducing the effectiveness of state and local programs. The Committee also recognizes that the continuation of Federal preemption restricts the ability of state and local governments to enforce noise requirements. Because the Committee understands that the EPA noise office's functions will be reduced, the Committee believes that it is appropriate for states to have authority to enforce Federal regulations in addition to their existing authority to adopt and enforce requirements identical to Federal requirements. For this reason, the bill amends Section 11 of the Act to provide the Attorney General of any state with the authority to initiate a civil action in an appropriate district court of the United States against any person who violates any of the prohibited acts under Section 10 of the Act. The provision is structured so that either the Federal or state government may initiate such action. However, the maximum total penalty that may be imposed for a violation is \$10,000 per day. This provision of the bill also requires notification to the Administrator by the state initiating any such action in a manner consistent with Section 12(b) of the Act in order to avoid unnecessary or unintended duplication of effort.

It is the Committee's view that the combination of broadening state enforcement authority and narrowing Federal regulatory authority will have the effect of both limiting the economic burden to certain industries while strengthening state and local government ability to control their own noise problems.

COMMITTEE CONSIDERATION

The Committee's Subcommittee on Commerce, Transportation and Tourism held a hearing on the reauthorization of the Noise Control Act of 1972 on February 25, 1981. Testimony was heard from Mr. Walter Barber, Acting Administrator of the U.S. Environmental Protection Agency; Dr. George Fellendorf, National Information Center for Quiet; Mr. John Martin, American Association of Retired Persons; Dr. Jill Lipoti, Rutgers University Noise Tech-

nical Assistance Center; Mr. Joseph Pulaski, State of Connecticut; Ms. Jacquelin Heather, National League of Cities; and Mr. Jesse Borthwick, National Association of Noise Control Officials.

On April 1, 1981, the Subcommittee met in open markup session and, by voice vote, ordered that a clean bill reflecting the subcommittee print, as amended, be introduced and reported to the Full Committee on Energy and Commerce. The Full Committee met in open markup session on May 12, 1981, and by voice vote and with a quorum present, ordered the bill H.R. 3071 reported to the House of Representatives with an amendment.

OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee has made oversight findings set forth in this report.

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee on Government Operations.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, The Committee makes the following statement with regard to the inflationary impact of the reported bill:

The Committee believes that the enactment of this legislation will have no inflationary impact on prices and costs in the operation of the national economy.

COST ESTIMATE

In compliance with clause 7(a) of of rule XIII of the Rules of the House of Representatives, the following statement is made regarding the cost of this legislation:

The reported bill authorizes an appropriation not to exceed \$7,300,000 to carry out the provisions of the Noise Control Act for each of the fiscal years 1982 and 1983. This amount represents the Committee's estimate of funds necessary for the performance of statutory responsibilities under that Act during the next two fiscal years.

In accordance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee includes the following cost estimate submitted by the Congressional Budget Office relative to the provisions of H.R. 3071:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 14, 1981.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3071, the Quiet Communities Act.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, MAY 14, 1981

1. Bill number: H.R. 3071.
2. Bill title: Quiet Communities Act.
3. Bill status: As ordered reported by the House Committee on Energy and Commerce, May 12, 1981.
4. Bill purpose: The bill authorizes the appropriation of \$7.3 million to the Environmental Protection Agency (EPA) for each of fiscal years 1982 and 1983 to carry out the provisions of the Noise Control Act of 1972. In addition, the bill repeals EPA's authority to regulate product labeling with regard to noise and grants standing to any state that brings civil action against any person who violates the noise control requirements of the act. The 1981 appropriation to date for these activities is \$13.0 million; the Administration's requested funding level is \$2.3 million in 1982 and such sums as may be necessary in 1983.
5. Cost estimate:

(By fiscal year, in thousands of dollars)

	1982	1983	1984	1985	1986
Authorization level.....		7,300	7,300		
Estimated outlays.....		5,475	6,935	1,825	385

The costs of this bill fall within budget function 300.

6. Basis of estimate: The authorization levels are those stated in the bill. The authorized amounts are assumed to be appropriated by the start of each fiscal year. Outlays are estimated based on information provided by the agency and on historical spending patterns.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Anne E. Hoffman.
10. Estimate approved by: ROBERT A. SUNSHINE, for James L. Blum, Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1 of the reported bill amends Section 6 to limit the authority of the Environmental Protection Agency to regulate only the noise emission of certain transportation equipment distributed in interstate commerce and the motors and engines designed for use in such equipment.

The title of the law is changed to the "Quiet Communities Act".

Section 8 of the Act is repealed, removing the Environmental Protection Agency's authority to promulgate regulations pertaining to product labeling.

Section 11 is amended to authorize any State to bring a civil action or impose a civil penalty for any violation under Section 10 of this Act.

Section 2 amends Section 19 of the Act, authorizing appropriations of \$7.3 million to carry out the provisions of the Act during each of the fiscal years 1982 and 1983.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

NOISE CONTROL ACT OF 1972

SHORT TITLE

SECTION 1. This Act may be cited as the ["Noise Control Act of 1972."] "*Quiet Communities Act*".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to [deal with major noise sources in commerce control of which require national uniformity of treatment] *assure uniform treatment of certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce which are major noise sources.*

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination or Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards [for products distributed in commerce,] *for certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce,* and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

DEFINITIONS

SEC. 3. For purposes of this Act.

(1)

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 6 [or section 8] which would have been applicable to such product had it been manufactured in the United States.

IDENTIFICATION OF MAJOR NOISE SOURCES; NOISE CRITERIA AND CONTROL TECHNOLOGY

Sec. 5. (a)(1) * * *

(b) The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which are referred to in section 6(a)(1) and which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act.

NOISE EMISSION STANDARDS FOR PRODUCTS DISTRIBUTED IN COMMERCE

Sec. 6. (a)(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c), for each product—

(A) which is identified (or is part of a class identified) in any report published under section 5(b)(1) as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

[(i) Construction equipment.]

[(ii) (i) Transportation equipment (including recreational vehicles and related equipment).

[(iii) (ii) Any motor or engine (including any equipment of which an engine or motor is an integral part) designed for use in transportation equipment.

[(iv) Electrical or electronic equipment.]

Such regulations shall not apply to the products to which subpart F of part 205 of title 40 of the Code of Federal Regulations (as promulgated before the date of the enactment of this sentence) applies.

[LABELING

[Sec. 8. (a) The Administrator shall by regulation designate any product (or class thereof)—

[(1) which emits noise capable of adversely affecting the public health or welfare; or

[(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

[(b) For each product (or class thereof) designated under subsection (a) the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Sections 6(c)(2) shall apply to the prescribing of any regulation under this section.

[(c) This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.]

PROHIBITED ACTS

Sec. 10. (a) Except as otherwise provided in subsection (b), the following acts or the causing thereof are prohibited:

(1)

[(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 8(b) (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

[(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 8(b), prior to sale of the product to the ultimate purchaser.]

(b)(1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), [3], and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs [1], [2], [3], and [4] (1) and (2) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

ENFORCEMENT

Sec. 11. (a)(1) Any person who willfully or knowingly violates paragraph (1), [3], (5), or (6) of subsection (a) of section 10 of this Act shall be punished by a fine of not more than \$25,000 per day of

violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who violates paragraph (1) ~~[(3)]~~, (5), or (6) of subsection (a) of section 10 of this Act shall be subject to a civil penalty not to exceed \$10,000 (reduced by the amount of any penalty imposed under subsection (f)) per day of such violation.

(f) The Attorney General of any State may bring a civil action, in the name of such State, in the appropriate district court of the United States to impose a civil penalty against any person who violates any provision of section 10. In any such action the court may impose a civil penalty of not more than \$10,000 per day of such violation (reduced by the amount of any penalty imposed under subsection (a)(2)). The provisions of section 12(b) shall apply for purposes of actions brought under this subsection in the same manner as such provisions apply for purposes of section 12.

CITIZEN SUITS

Sec. 12. (a) Except as provided in subsection (b), any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection ~~[(e)]~~(f), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act of duty under this Act which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(f) For purposes of this section, the term "noise control requirement" means paragraph (1), (2), ~~[(3), (4),]~~ or (5) of section 10(a), or a standard, rule, or regulation issued under section 17 or 18 of this Act or under section 611 of the Federal Aviation Act of 1958.

RECORDS, REPORTS, AND INFORMATION

Sec. 13 (a) Each manufacturer of a product to which regulations under section 6 [or section 8] apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act.

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

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 QUIET COMMUNITIES, RESEARCH, PUBLIC INFORMATION

Sec. 14. To promote the development of effective State and local noise control programs to provide an adequate Federal noise control research program designed to meet the objectives of this Act, and to otherwise carry out the policy of this Act, the Administrator shall, in cooperation with other Federal agencies and through the use of grants, contracts, and direct Federal actions—

(a)

(b) conduct or finance research directly or with any public or private organization or any person on the effects, measurement, and control of noise, including but not limited to—

(1) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and the determination of dose/response relationships suitable for use in decisionmaking, with special emphasis on the nonauditory effects of noises;

(2) investigation, development, and demonstration of noise control technology for products subject to possible regulation under [sections 6, 7, and 8] (6) or (7) of this Act;

JUDICIAL REVIEW; WITNESSES

Sec. 16. (a) A petition for review of action of the Administrator of the Environmental Protection Agency in promulgating any standard or regulation under section 6, 17, or 18 of this Act [or any labeling regulation under section 8 of this Act] may be filed only in the United States Court of Appeals for the District of Columbia Circuit, and a petition for review of action of the Administrator of the Federal Aviation Administration in promulgating any standard or regulation under section 611 of the Federal Aviation Act of 1958 may be filed only in such court. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after