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Director
Standards and Regulations Division
U.S. ENVIRONMENTAL PROTECTION AGENCY
(ANR-490)
401 'M Street, S.W.
Washington, D.C. 20460

ATTENTION: ONAC Docket 81-02
(Medium and Heavy Trucks)

Dear Sir:

The NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION, representing the Waste Equipment Manufacturers Institute (WEMI) whose membership includes manufacturers of truck mounted solid waste compactors (TMSWC) and manufacturers of heavy truck chassis, strongly urges the Environmental Protection Agency to rescind the 80 dB noise regulations for medium and heavy trucks and the 76 dB limit for TMSWC's.

Existing evidence has already shown that TMSWC manufacturers must acoustically test essentially every vehicle manufactured under the October 1, 1980, Phase I rules. This testing, conducted at considerable expense, is required because:

- o There is no statistical data base available for TMSWC manufacturers to draw upon to assure themselves that a particular completed TMSWC configuration will meet the current 1980 79 dB maximum noise level. One of the several truck chassis manufacturers has already stated before EPA that several thousands of chassis drive-by tests were required in order to construct such a data base for his own use. Unfortunately, TMSWC manufacturers do not assemble sufficient quantities of like vehicles to develop a statistical data base in which they feel confident nor will they manufacture sufficient numbers over the next two year period before the 80 dB (76 dB for TMSWC) rules are scheduled to go into effect.

- COLLECTION COMMITTEE
- INSTITUTE OF CHEMICAL WASTE MANAGEMENT
- INSTITUTE OF RESOURCE RECOVERY
- INSTITUTE OF WASTE EQUIPMENT DISTRIBUTORS
- INSTITUTE OF WASTE TECHNOLOGY
- LANDFILL COMMITTEE
- WASTE EQUIPMENT MANUFACTURERS INSTITUTE

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- o TMSWC manufacturers daily receive a wide variety of bare chassis configurations which severely dilute any effort to develop a meaningful data base.
- o Existing bare chassis, as received, vary in dB levels generally from 70 dB to 78 dB at speeds appropriate for operation of TMSWC's when tested in accordance with 40 CFR Part 205.204. These variations are caused in part by differences in configurations of the engine, exhaust stack, transmission, PTO, etc., and by differences between manufacturers of all of the above main and auxiliary components.

Reducing the current 83 dB drive-by test to 80 dB and the concurrent reduction of 79 dB to 76 dB for TMSWC's will result in significant costs as TMSWC manufacturers attempt to meet the next lower noise levels. Already these manufacturers have stated before EPA concerning the current noise standard that:

- o Engine speed control governors on most diesel engines are inadequate to provide speed control necessary for operational requirements. Much more sophisticated governors are currently required to meet 1982 noise standards.
- o Many TMSWC orders received are from customers who have driven or shipped the chassis over long distances in the belief that a short turn-around is possible. Customers do not want to be faced with non-delivery based on acoustical testing delays such as might occur due to adverse weather conditions. Delivery delays are critical to the purchaser's operation and generate additional costs when they occur.
- o On front-loader vehicles, governor control mechanisms are already unsatisfactory to meet both operational and noise requirements. Further reduction in the noise level will exacerbate the problem.

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- o Modification to various chassis systems (engine, engine compartment, exhaust stack, etc.) are required in many cases to achieve some assurances that the vehicle will meet and maintain the required noise levels. These are modifications that the TMSWC manufacturers should not be required to make. Additional modifications are anticipated to meet the 1982 noise standard.
- o Additional and significant bare chassis cost increases are anticipated for the chassis manufacturers to meet the 1982 standard. These costs are cumulative from the component manufacturer to the chassis manufacturer to the compactor manufacturer and are passed on to the purchaser and ultimately the solid waste generator.

Notwithstanding the above practical and technical issues, there are legal issues still unresolved concerning the overall noise regulation. Manufacturing members of WEMI believe that the acoustical assurance period established by the regulations is invalid because the Noise Control Act does not authorize promulgation of an in-use standard for the following reasons:

- o The Noise Control Act does not permit enforcement of an in-use standard.
- o The in-use standard contravenes Congress' intent that major noise sources be given uniform treatment.
- o Congress specifically rejected the requirement of a post-sale warranty to consumers.
- o The Clean Air Act demonstrates that if Congress had intended to authorize promulgation of an in-use standard, it would have provided such authority expressly in the Noise Control Act.

Further, the regulations are invalid because the regulatory scheme is arbitrary and capricious. The in-use standard does not accomplish the Environmental Protection Agency's objectives in a rational manner.

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The record shows that the industry lacks the technology to comply with the standard and that EPA has available to it rational alternative means of minimizing vehicle noise degradation. Also, the regulation fails to apportion responsibility for TMSWC noise emissions in a rational manner. To the extent that the noise control regulations place full responsibility for the TMSWC noise emissions on the final assembler, the regulations contravene the Noise Control Act. The Act requires that the regulations apply to cab-chassis manufacturers as well as the final assemblers. However, the current regulations now impose vicarious liability in contravention of the common law and are thus not authorized by the Noise Control Act.

Beyond the legal issues, NSWMA and WEMI are concerned about the direction that EPA is taking in implementing the Congressional mandate as expressed by the original Noise Control Act and the Quiet Communities Act of 1978. It is this organization's understanding that the role of the federal government in the control of noise as expressed by Congress is to identify broad categories of noise sources that affect the overall population and to develop standards that would result in a reduction of noise from these broad sources for the benefit of the public. We differ from EPA as to the direction of current programs in the control of noise.

EPA is now concerned with subdividing broad categories of noise into discrete sections for individual federal regulatory effort. For example, under the broad category of large trucks, and under the sub-category of trash pick-up, EPA has singled out the sub sub category of garbage truck compactor noise for regulations. We recognize that EPA, or any regulatory agency for that matter, is entirely capable of subdividing a broad category of noise into discrete segments and proceeding with regulations to control each individual segment. Such a policy, however, results in an ever increasing number of regulations with an ever increasing negative economic impact on the manufacturing community thus regulated and on the public as a whole who must eventually bear the incremental cost of each regulation. We do not believe that it was the intent of Congress to foster such a policy.

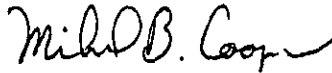
Further, it has been said that regulating specific subdivisions of a broad noise category will preempt state and local institutions. A thorough examination of the federal statute, its legislative history, and the regulations promulgated thereunder leads to the conclusion that

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through allowable use, licensing, and other regulatory restrictions,
states and localities can create virtually the same product-specific
regulations as would be possible under a federal regulation of the spe-
cific subdivision. Thus, the requirement for federal involvement appears
to be duplicative. Duplication also involves an added cost burden to
the end user as mentioned earlier.

Based on the above discussion concerning practical and technical
issues, legal issues, and the issue of the current regulatory direction
that EPA is taking, it is requested that EPA rescind the 80 dB regu-
lation for medium and heavy trucks as a minimum step.

Sincerely,



Michael B. Cooper
Institutes Manager

MBC:bjm