

## **The Quiet Communities Act of 1997**

March 19, 1997

Representative Nita Lowey  
Room 2421 Rayburn House Office Building  
Washington, DC 20515

Dear Congresswoman Lowey:

The National Hearing Conservation Association (NHCA) of which I am the President, recently learned the exciting news that you have introduced into the House the Quiet Communities Act of 1997. We applaud your efforts to refund the Environmental Protection Agency's (EPA's) Office of Noise Abatement and Control (ONAC) and are writing this letter to advise you of an additional important reason to promote this legislation. The following information has already been discussed verbally with your Legal Advisor for Environmental Issues, Mr. Todd Preston. You may wish to review this material with him for further details.

The NHCA is an organization of professionals who share a common goal—the prevention of noise-induced hearing loss. The Association is composed of nearly 600 audiologists, physicians, industrial hygienists, safety specialists, engineers and scientists, occupational health nurses, equipment manufacturers, and others, all of whom are concerned with the prevention of hearing loss for the 30+ million Americans who are exposed to hazardous noise at work. Its interests extend to all situations in which hazardous noise exists, whether occupational settings in industry, construction, farming, or the armed forces. As well, NHCA is interested in preventing noise-induced hearing loss in non-occupational applications in the consumer and recreational sectors.

In 1993 NHCA established a Task Force on Hearing Protector Effectiveness, whose efforts and findings are described in the attached documentation. Their concern was the labeling of hearing protection devices as called for by the Noise Control Act of 1972 [Section 8, 42 U.S.C. 4907], and as implemented by the EPA in their 1979 regulation [Noise Labeling Requirements for Hearing Protectors, Fed. Regist. 44(190), 40CFR Part 211, 56130-16147]. These issues are alluded to in paragraph 3 of section 2 of your Quiet Communities Act. Ironically, because the Noise Control Act was not rescinded when ONAC was defunded in 1982, this 20-year old regulation is still effective with no office or person assigned to manage it.

As you might anticipate for an act of this age, the EPA labeling regulation requires updating, but that is not possible given its orphan status. Since the regulations promulgation, much has been learned about hearing protector performance, and standards have changed. For example, the Occupational Safety and Health Administration (OSHA) now requires its inspectors to divide the EPA protector rating by two before considering the device's effectiveness against noise. The National Institute for Occupational Safety and Health (NIOSH) also recommends derating the EPA protector ratings, but using a somewhat more complex scheme.

In short, the current hearing protector Noise Reduction Ratings are of even less accuracy and value than the original much-maligned EPA fuel-economy ratings. The fuel-economy ratings were improved; the hearing protector ratings have not been. (The specific deficiencies in the existing EPA regulation are discussed in the attached 1995 petition from the NHCA to the administrator of the EPA.)

In spite of no one being home at the EPA, hearing conservation professionals have continued to work on dealing with protector labeling issues. Over the past nine years a new test method has been developed, tested, and incorporated into a standard (American National Standard, S12.6-1997 Methods for Measuring the Real-Ear Attenuation of Hearing Protectors). The new standard provides a method that will yield more useful and representative estimates of the field performance of hearing protectors.

A Task Force established by NHCA worked for three years to develop new protector labeling methods. NHCA and seven other professional organizations many of which had been participants in the Task Force, wrote the EPA to demand action. The petitioners included the:

American Academy of Audiology (AAA)  
American Association of Occupational Health Nurses (AAOHN)  
American Industrial Hygiene Association (AIHA)  
Acoustical Society of America (ASA)  
American Society of Safety Engineers (ASSE)

American Speech-Language Hearing Association (ASHA)  
Council for Accreditation in Occupational Hearing Conservation (CAOHC)

In addition, the Board of the American Academy of Otolaryngology - Head and Neck Surgery (AAO/HNS) has endorsed the findings of the Task Force, and the American College of Occupational and Environmental Medicine (ACOEM) is also expected to act in the near future.

Thus, we have a situation in which virtually all of the concerned professional organizations are calling for a revision of the existing EPA regulation, the regulation itself calls for testing by a standard which is inaccurate, has been replaced, and is no longer in existence, and the data provided to industry and consumers on package labels are meaningless and misleading. If such a situation existed with respect to FDA labeling of food content, the hue and cry would be deafening. Yet, nothing is happening because ONAC has no staff and EPA has no money, and the electorate is not aware of the problem.

Potentially the Quiet Communities Act of 1997 could change that. It is the desire of NHCA that our voice will lend support in the efforts to achieve passage of your proposed legislation in this session of Congress.

Our prior correspondence with the EPA and technical support papers are attached. If you require further information or would like to discuss these matters in greater detail, I would be pleased to hear from you.

Sincerely,

Mary McDaniel  
President, NHCA

attach:

letter from NHCA to Carol Browner, EPA, 8/1/95  
summary of NHCA Task Force findings on HPD labeling  
Royster (1995). "In search of meaningful measures..."