Title 40 —Protection of Environment
Chapter I —Environmental Protection Agency
Subchapter G —Noise Abatement Programs

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

Authority: Secs. 6, 10, 11, 13, Pub. L. 92-574, 86 Stat. 1234 (42 U.S.C. 4905, 4909, 4910, 4912).

Source: 41 FR 15544, Apr. 13, 1976, unless otherwise noted.

Subpart A—General Provisions

§ 205.1 General applicability.

The provisions of this subpart are applicable to all products for which regulations have been published under this part and which are manufactured after the effective date of such regulations.

§ 205.2 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act.

(1) ***Act*** means the Noise Control Act of 1972 (Pub. L. 92-574, 86 Stat. 1234).

(2) ***Administrator*** means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) ***Agency*** means the United States Environmental Protection Agency.

(4) ***Export exemption*** means an exemption from the prohibitions of section 10(a) (1), (2), (3), and (4) of the Act, granted by statute under section 10(b)(2) of the Act for the purpose of exporting regulated products.

(5) ***National security exemption*** means an exemption from the prohibitions of section 10(a) (1), (2), (3), and (5) of the Act, which may be granted under section 10(b)(1) of the Act for the purpose of national security.

(6) [Reserved]

(7) ***Sound Level*** means 20 times the logarithm to base 10 of the ratio of pressure of a sound to the reference pressure. The reference pressure is 20 micropascals (20 micronewtons per square meter). NOTE: Unless otherwise explicitly stated, it is to be understood that the sound pressure is the effective (rms) sound pressure, per American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(8) ***Sound Pressure Level*** means in decibels, 20 times the logarithm to the base 10 of the ratio of a sound pressure to the reference sound pressure of 20 micropascals (20 micronewtons per square meter). In the absence of any modifier, the level is understood to be that of a root-mean-square pressure. The unit of any sound level is the decibel, having the unit symbol dB.

(9) ***dB(A)*** means the standard abbreviation for A-weighted sound levels in decibels.

(10) ***Highway*** means the streets, roads, and public ways in any State.

(11) ***Fast Meter Response*** means that the fast dynamic response of the sound level meter shall be used. The fast dynamic response shall comply with the meter dynamic characteristics in paragraph 5.3 of the American National Standard Specification for Sound Level Meters, ANSI SI.4-1971. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(12) ***Person*** means an individual, corporation, partnership, or association, and except as provided in sections 11(e) and 12(a) of the Act includes any officer, employee, department, agency or instrumentality of the United States, a State or any political subdivision of a State.

(13) ***Reasonable assistance*** means providing timely and unobstructed access to test products or products and records required by this part, and opportunity for copying such records or testing such test products.

(14) ***Ultimate purchaser*** means the first person who in good faith purchases a product for purposes other than resale.

(15) ***New product*** means

(i) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or

(ii) 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 8 which would have been applicable to such product had it been manufactured in the United States.

(16) ***Manufacturer*** means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for and is controlled by any such person in connection with the distribution of such products.

(17) ***Commerce*** means trade, traffic, commerce, or transportation:

(i) Between a place in a State and any place outside thereof, or

(ii) Which affects trade, traffic, commerce, or transportation described in paragraph (a)(17)(i) of this section.

(18) ***Distribute in commerce*** means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(19) ***State*** includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(20) ***Federal Agency*** means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

(21) ***Environmental noise*** means the intensity, duration, and the character of sounds from all sources.

(22) ***Warranty*** means the warranty required by section 6(c)(1) of the Act.

(23) ***Tampering*** means those acts prohibited by section 10(a)(2) of the Act.

(24) ***Maintenance instructions*** **or** ***instructions*** means those instructions for maintenance, use, and repair, which the Administrator is authorized to require pursuant to section 6(c)(1) of the Act.

(25) ***Type I Sound Level Meter*** means a sound level meter which meets the Type I requirements of ANSI SI.4-1972 specification for sound level meters. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(26) ***Testing exemption*** means an exemption from the prohibitions of section 10(a) (1), (2), (3), and (5) of the Act, which may be granted under section 10(b)(1) of the Act for the purpose of research, investigations, studies, demonstrations, or training, but not including national security.

(27) ***Product*** means any transportation equipment for which regulations have been promulgated under this part and includes “test product.”

(28) ***Test product*** means any product that is required to be tested pursuant to this part.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61457, Dec. 5, 1977]

§ 205.3 Number and gender.

As used in this part, words in the singular shall be deemed to import the plural, and words in the masculine gender shall be deemed to import the feminine and vice versa, as the case may require.

§ 205.4 Inspection and monitoring.

(a) Any inspection or monitoring activities conducted under this section shall be for the purpose of determining

(1) whether test products are being selected and prepared for testing in accordance with the provisions of these regulations,

(2) whether test product testing is being conducted in accordance with these regulations, and

(3) whether products being produced for distribution into commerce comply with these regulations.

(b) The Director, Noise Enforcement Division, may request that a manufacturer subject to this part admit an EPA Enforcement Officer during operating hours to any of the following:

(1) Any facility or site where any product to be distributed into commerce is manufactured, assembled, or stored;

(2) Any facility or site where any tests conducted pursuant to this part or any procedures or activities connected with such tests are or were performed; and

(3) Any facility or site where any test product is present.

(c)

(1) An EPA Enforcement Officer, once admitted to a facility or site, will not be authorized to do more than:

(i) To inspect and monitor test product manufacture and assembly, selection, storage, preconditioning, noise emission testing, and maintenance, and to verify correlation or calibration of test equipment;

(ii) To inspect products prior to their distribution in commerce:

(iii) To inspect and photograph any part or aspect of any such product and any component used in the assembly thereof that are reasonably related to the purpose of his entry.

(iv) [Reserved]

(v) To obtain from those in charge of the facility or site such reasonable assistance as he may request to enable him to carry out any proper function listed in this section.

(2) [Reserved]

(3) The provisions of this section apply whether the facility or site is owned or controlled by the manufacturer or by one who acts for the manufacturer.

(d) For purposes of this section:

(1) An “EPA Enforcement Officer” is an employee of the EPA Office of Enforcement who displays upon arrival at a facility or site the credentials identifying him as such an employee and a letter signed by the Director, Noise Enforcement Division designating him to make the inspection.

(2) Where test product storage areas or facilities are concerned, “operating hours” shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (d)(2) of this section are concerned, “operating hours” shall mean all times during which product manufacture or assembly is in operation or all times during which product testing and maintenance is taking place and/or production or compilation of records is taking place, or any other procedure or activity related to selective enforcement audit testing or product manufacture or assembly being carried out in a facility.

(e) The manufacturer shall admit to a facility or site an EPA Enforcement Officer who presents a warrant authorizing entry. In the absence of such warrant, entry to any facility or site under this section will be only upon the consent of the manufacturer.

(1) It is not a violation of this regulation or the Act for any person to refuse entry without a warrant.

(2) The Administrator or his designee may proceed ex parte to obtain a warrant whether or not the manufacturer has refused entry.

[41 FR 15544, Apr. 13, 1976, as amended at 43 FR 27990, June 28, 1978; 47 FR 57713, Dec. 28, 1982]

§ 205.5 Exemptions.

§ 205.5-1 Testing exemption.

(a) A new product intended to be used solely for research, investigations, studies, demonstrations or training, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of section 10(a)(1), (2), (3), and (5) of the Act.

(b) No request for a testing exemption is required.

(c) For purposes of section 11(d) of the Act, any testing exemption shall be void ab initio with respect to each new product, originally intended for research, investigations, studies, demonstrations, or training, but distributed in commerce for other uses.

[47 FR 57713, Dec. 28, 1982]

§ 205.5-2 National security exemptions.

(a) A new product which is produced to conform with specifications developed by a national security agency, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of section 10(a)(1), (2), (3), and (5) of the Act.

(b) No request for a national security exemption is required.

(c) For purposes of section 11(d) of the Act, any national security exemption shall be void ab initio with respect to each new product, originally intended to be produced to conform with specifications developed by a national security agency, but distributed in commerce for other uses.

(d) Any manufacturer or person subject to the liabilities of section 11(a) with respect to any product originally intended for a national security agency, but distributed in commerce for use in any State, may be excluded from the application of section 11(a) with respect to such product based upon a showing that such manufacturer:

(1) Had no knowledge of such product being distributed in commerce for use in any state; and

(2) Made reasonable effort to ensure that such products would not be distributed in commerce for use in any State. Such reasonable efforts would include investigation, prior dealings, contract provisions, etc.

[47 FR 57714, Dec. 28, 1982]

§ 205.5-3 Export exemptions.

(a) A new product intended solely for export, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of section 10(a), (1), (2), (3), and (4) of the Act.

(b) No request for an export exemption is required.

(c) For purposes of section 11(d) of the Noise Control Act, the Administrator may consider any export exemption under section 10(b)(2) as void ab initio with respect to each new product intended solely for export which is distributed in commerce for use in any State.

(d) In deciding whether to institute proceedings against a manufacturer pursuant to section 11(d)(1) of the Act with respect to any product originally intended solely for export but distributed in commerce for use in any state, the Administrator will consider:

(1) Whether the manufacturer had knowledge that such product would be distributed in commerce for use in any state; and

(2) Whether the manufacturer made reasonable efforts to ensure that such product would not be distributed in commerce for use in any state. Such reasonable efforts would include consideration of prior dealings with any person which resulted in introduction into commerce of a product manufactured for export only, investigation of prior instances known to the manufacturer of introduction into commerce of a product manufactured for export only, and contract provisions which minimize the probability of introduction into commerce of a product manufactured for export only.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61457, Dec. 5, 1977. Redesignated at 47 FR 57714, Dec. 28, 1982]

Subpart B—Medium and Heavy Trucks

§ 205.50 Applicability.

(a) Except as otherwise provided for in these regulations the provisions of this subpart apply to any vehicle which has a gross vehicle weight rating (GVWR) in excess of 10,000 pounds, which is capable of transportation of property on a highway or street and which meets the definition of the term “new product” in the Act.

(b) The provisions of the subpart do not apply to highway, city, and school buses or to special purpose equipment which may be located on or operated from vehicles. Tests performed on vehicles containing such equipment may be carried out with the special purpose equipment in nonoperating condition. For purposes of this regulation special purpose equipment includes, but is not limited to, construction equipment, snow plows, garbage compactors and refrigeration equipment.

§ 205.51 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in other subparts of this part.

(1) ***Acceptable Quality Level*** means the maximum percentage of failing vehicles that for purposes of sampling inspection, can be considered satisfactory as a process average.

(2) ***Acceptance of a batch*** means that the number of noncomplying vehicles in the batch sample is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(3) ***Batch*** means the collection of vehicles of the same category, configuration or subgroup thereof as designated by the Administrator in a test request, from which a batch sample is to be drawn, and inspected to determine conformance with the acceptability criteria.

(4) ***Batch size*** means the number as designated by the Administrator in the test request of vehicles of the same category or configuration in a batch.

(5) ***Batch sample*** means the collection of vehicles of the same category, configuration or subgroup thereof which are drawn from a batch and from which test samples are drawn.

(6) ***Batch sample size*** means the number of vehicles of the same category or configuration in a batch sample.

(7) ***Cab over axle*** or ***cab over engine*** means the cab which contains the operator/passenger compartment is directly above the engine and front axle and the entire cab can be tilted forward to permit access to the engine compartment.

(8) ***Category*** means a group of vehicle configurations which are identical in all material aspects with respect to the parameters listed in § 205.55-2.

(9) ***Configuration*** means the basic classification unit of a manufacturer's product line and is comprised of all vehicle designs, models or series which are identical in material aspects with respect to the parameters listed in § 205.55-3.

(10) ***Acceptance of a Batch sequence*** means that the number of rejected batches in the sequence is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(11) ***Rejection of a Batch sequence*** means that the number of rejected batches in a sequence is equal to or greater than the rejection number as determined by the appropriate sampling plan.

(12) ***Capable of Transportation of Property on a street or highway*** means that the vehicle:

(i) Is self propelled and is capable of transporting any material or fixed apparatus, or is capable of drawing a trailer or semi-trailer;

(ii) Is capable of maintaining a cruising speed of at least 25 mph over level, paved surface;

(iii) Is equipped or can readily be equipped with features customarily associated with practical street or highway use, such features including but not being limited to: A reverse gear and a differential, fifth wheel, cargo platform or cargo enclosure, and

(iv) Does not exhibit features which render its use on a street or highway impractical, or highly unlikely, such features including, but not being limited to, tracked road means, an inordinate size or features ordinarily associated with combat or tactical vehicles.

(13) ***Exhaust System*** means the system comprised of a combination of components which provides for enclosed flow of exhaust gas from engine exhaust port to the atmosphere.

(14) ***Gross Combination Weight Rating*** (GCWR) means the value specified by the manufacturer as the loaded weight of a combination vehicle.

(15) ***Gross Vehicle Weight Rating*** (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

(16) ***Inspection Criteria*** means the rejection and acceptance numbers associated with a particular sampling plan.

(17) ***Model year*** means the manufacturer's annual production period which includes January 1 of such calendar year: Provided, that if the manufacturer has no annual production period, the term “model year” shall mean the calendar year.

(18) ***Noise Control System*** includes any vehicle part, component or system the primary purpose of which is to control or cause the reduction of noise emitted from a vehicle.

(19) ***Noise emission test*** means a test conducted pursuant to the measurement methodology specified in this subpart.

(20) [Reserved]

(21) ***Rejection of a batch*** means the number of noncomplying vehicles in the batch sample is greater than or equal to the rejection number as determined by the appropriate sampling plan.

(22) ***Shift*** means the regular production work period for one group of workers.

(23) ***Test sample*** means the collection of vehicles from the same category, configuration or subgroup thereof which is drawn from the batch sample and which will receive noise emissions tests.

(24) ***Failing vehicle*** means that the measured emissions of the vehicle, when measured in accordance with the applicable procedure, exceeds the applicable standard.

(25) ***Acceptance of a vehicle*** means that the measured emissions of the vehicle when measured in accordance with the applicable procedure, conforms to the applicable standard.

(26) ***Tampering*** means those acts prohibited by section 10(a)(2) of the Act.

(27) ***Test sample size*** means the number of vehicles of the same category or configuration in a test sample.

(28) ***Test vehicle*** means a vehicle selected and used to demonstrate compliance with the applicable noise emission standards.

(29) ***Vehicle*** means any motor vehicle, machine or tractor, which is propelled by mechanical power and capable of transportation of property on a street or highway and which has a gross vehicle weight rating in excess of 10,000 pounds and a partially or fully enclosed operator's compartment.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61456, 61458, Dec. 5, 1977; 47 FR 57714, Dec. 28, 1982]

§ 205.52 Vehicle noise emission standards.

(a) ***Low Speed Noise Emission Standard.*** Vehicles which are manufactured after the following effective dates shall be designed, built and equipped so that they will not produce sound emissions in excess of the levels indicated.

Effective date	Level
(i) January 1, 1979	83 dBA.
(ii) January 1, 1988	80 dBA.

(b) The standards set forth in paragraph (a) of this section refer to the sound emissions as measured in accordance with the procedures prescribed in § 205.54-1,2.

(c) Every manufacturer of a new motor vehicle subject to the standards prescribed in this paragraph shall, prior to taking any of the actions specified in section 10(a)(1) of the Act, comply with the other provisions of this subpart or Subpart A, as applicable.

(d) ***In-Use Standard.*** [Reserved]

(e) ***Low Noise Emission Product.*** [Reserved]

(Sec. 6, Pub. L. 92-574, 86 Stat. 1237 (42 U.S.C. 4905, 4906))

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61456, Dec. 5, 1977; 51 FR 852, Jan. 8, 1986]

§ 205.54 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of vehicles with the standards set forth in § 205.52 for the purposes of Selective Enforcement Auditing and Testing by the Administrator.

[47 FR 57714, Dec. 28, 1982]

§ 205.54-1 Low speed sound emission test procedures.

(a) ***Instrumentation.*** The following instrumentation shall be used, where applicable.

(1) A sound level meter which meets the Type 1 requirements of ANSI S1.4-1971, Specification for Sound Level Meters, or a sound level meter may be used with a magnetic tape recorder and/or a graphic level recorder or indicating meter, providing the system meets the requirements of § 205.54-2.

(2) A sound level calibrator. The calibrator shall produce a sound pressure level, at the microphone diaphragm, that is known to within an accuracy of ±0.5 dB. The calibrator shall be checked annually to verify that its output has not changed.

(3) An engine-speed tachometer which is accurate within ±2 percent of meter reading.

(4) An anemometer or other device for measurement of ambient wind speed accurate within ±10 percent.

(5) A thermometer for measurement of ambient temperature accurate within ±1 C.

(6) A barometer for measurement of ambient pressure accurate within ±1 percent.

(b)

(1) The test site shall be such that the truck radiates sound into a free field over a reflecting plane. This condition may be considered fulfilled if the test site consists of an open space free of large reflecting surfaces, such as parked vehicles, signboards, buildings or hillsides, located within 100 feet (30.4 meters) of either the vehicle path or the microphone.

(2) The microphone shall be located 50 feet ±4 in. (15.2 ±0.1 meter) from the centerline of truck travel and 4 feet ±4 in. (1.2 ±0.1 meters) above the ground plane. The microphone point is defined as the point of intersection of the vehicle path and the normal to the vehicle path drawn from the microphone. The microphone shall be oriented in a fixed position to minimize the deviation from the flattest system response over the frequency range 100 Hz to 10 kHz for a vehicle traversing from the acceleration point through the end zone.

The microphone shall be oriented with respect to the source so that the sound strikes the diaphragm at the angle for which the microphone was calibrated to have the flattest frequency response characteristic over the frequency range 100 Hz to 10 kHz.

(3) An acceleration point shall be established on the vehicle path 50 feet (15 m) before the microphone point.

(4) An end point shall be established on the vehicle path 100 feet (30 m) from the acceleration point and 50 feet (15 m) from the microphone point.

(5) The end zone is the last 40 feet (12 m) of vehicle path prior to the end point.

(6) The measurement area shall be the triangular paved (concrete or sealed asphalt) area formed by the acceleration point, the end point, and the microphone location.

(7) The reference point on the vehicle, to indicate when the vehicle is at any of the points on the vehicle path, shall be the front of the vehicle except as follows:

(i) If the horizontal distance from the front of the vehicle to the exhaust outlet is more than 200 inches (5.1 meters), tests shall be run using both the front and rear of the vehicle as reference points.

(ii) If the engine is located rearward to the center of the chassis, the rear of the vehicle shall be used as the reference point.

(8) The plane containing the vehicle path and the microphone location (plane ABCDE in Figure 1) shall be flat within ±2 inches (.05 meters).

(9) Measurements shall not be made when the road surface is wet, covered with snow, or during precipitation.

(10) Bystanders have an appreciable influence on sound level meter readings when they are in the vicinity of the vehicle or microphone; therefore not more than one person, other than the observer reading the meter, shall be within 50 feet (15.2 meters) of the vehicle path or instrument and the person shall

be directly behind the observer reading the meter, on a line through the microphone and observer. To minimize the effect of the observer and the container of the sound level meter electronics on the measurements, cable should be used between the microphone and the sound level meter. No observer shall be located within 1 m in any direction of the microphone location.

(11) The maximum A-weighted fast response sound level observed at the test site immediately before and after the test shall be at least 10 dB below the regulated level.

(12) The road surface within the test site upon which the vehicle travels, and, at a minimum, the measurements area (BCD in figure 205.1) shall be smooth concrete or smooth sealed asphalt, free of extraneous material such as gravel.

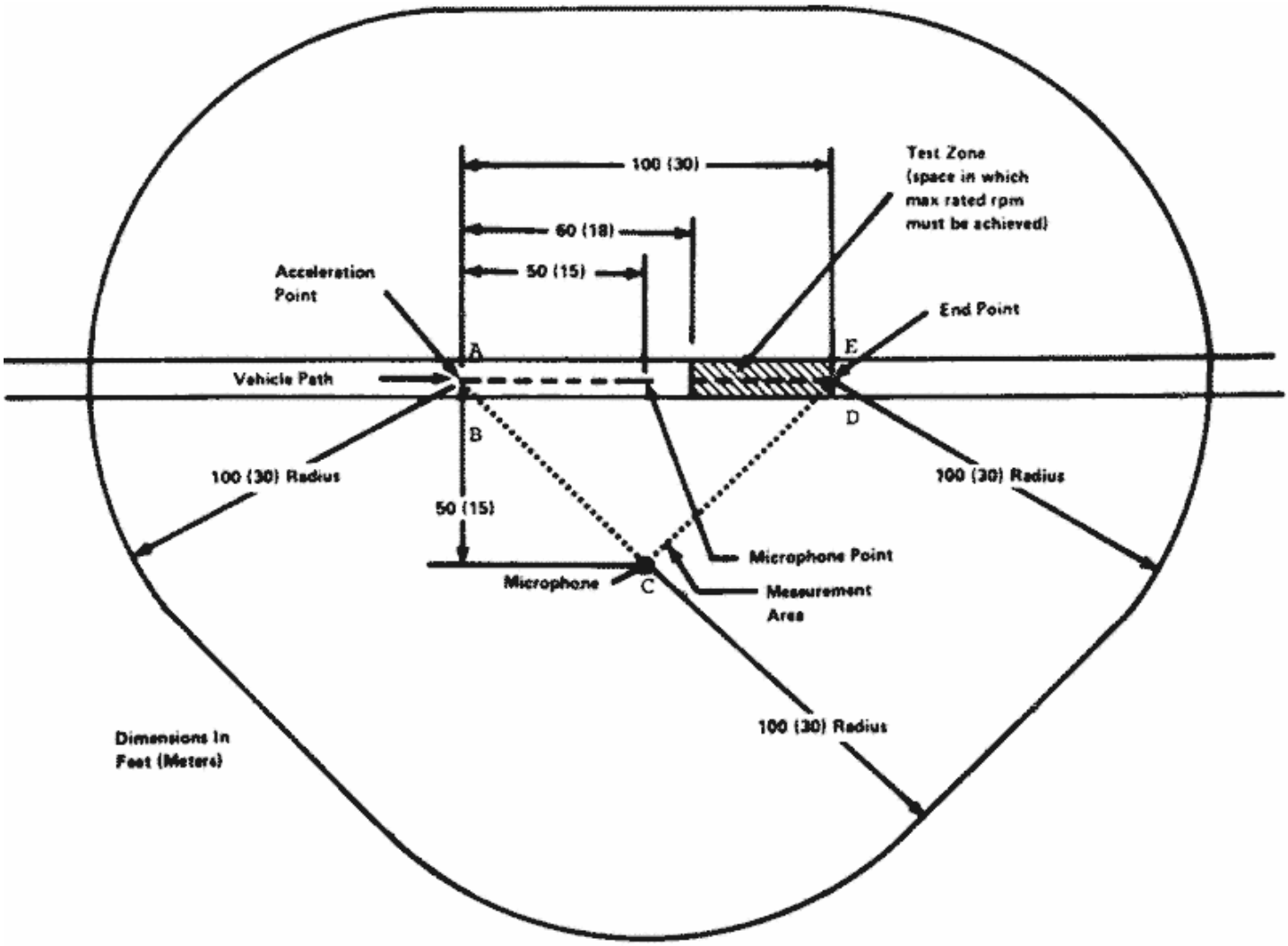


FIGURE 205.1

(13) Vehicles with diesel engines shall be tested using Number 1D or Number 2D diesel fuel possessing a cetane rating from 42 to 50 inclusive.

(14) Vehicles with gasoline engines shall use the grade of gasoline recommended by the manufacturer for use by the purchaser.

(15) Vehicles equipped with thermo- statically controlled radiator fans may be tested with the fan not operating.

(c) ***Procedures*** —

(1) ***Vehicle operation for vehicles with standard transmissions.*** Full throttle acceleration and closed throttle deceleration tests are to be used. A beginning engine speed and proper gear ratio must be determined for use during measurements. Closed throttle deceleration tests are required only for those vehicles equipped with an engine brake.

(i) Select the highest rear axle and/or transmission gear ("highest gear" is used in the usual sense; it is synonymous to the lowest numerical ratio) and an initial vehicle speed such that at wide-open throttle the vehicle will accelerate from the acceleration point.

(*a*) Starting at no more than two-thirds (66 percent) of maximum rated or of governed engine speed.

(*b*) Reaching maximum rated or governed engine speed within the end zone.

(*c*) Without exceeding 35 mph (56 k/h) before reaching the end point.

(*1*) Should maximum rated or governed rpm be attained before reaching the end zone, decrease the approach rpm in 100 rpm increments until maximum rated or governed rpm is attained within the end zone.

(*2*) Should maximum rated or governed rpm not be attained until beyond the end zone, select the next lower gear until maximum rated or governed rpm is attained within the end zone.

(*3*) Should the lowest gear still result in reaching maximum rated or governed rpm beyond the permissible end zone, unload the vehicle and/or increase the approach rpm in 100 rpm increments until the maximum rated or governed rpm is reached within the end zone.

(ii) For the acceleration test, approach the acceleration point using the engine speed and gear ratio selected in paragraph (c)(1) of this section and at the acceleration point rapidly establish wide-open throttle. The vehicle reference shall be as indicated in paragraph (b)(7) of this section. Acceleration shall continue until maximum rated or governed engine speed is reached.

(iii) Wheel slip which affects maximum sound level must be avoided.

(2) ***Vehicle operation for vehicles with automatic transmissions.*** Full throttle acceleration and closed throttle deceleration tests are to be used. Closed throttle deceleration tests are required only for those vehicles equipped with an engine brake.

(i) Select the highest gear axle and/or transmission gear (highest gear is used in the usual sense; it is synonymous to the lowest numerical ratio) in which no up or down shifting will occur under any operational conditions of the vehicle during the test run. Also, select an initial vehicle speed such that at wide-open throttle the vehicle will accelerate from the acceleration point.

(*a*) Starting at two-thirds (66 percent) of maximum rated or of governed engine speed.

(*b*) Reaching maximum rated or governed engine speed within the end zone.

(*c*) Without exceeding 35 mph (56 k/h) before reaching the end point.

(*1*) Should maximum rated or governed rpm be attained before reaching the end zone, decrease the approach rpm in 100 rpm increments until maximum rated or governed rpm is attained within the end zone.

(*2*) Should maximum rated or governed rpm not be attained until beyond the end zone, select the next lower gear until maximum rated or governed rpm is attained within the end zone.

(*3*) Should the lowest gear still result in reaching maximum rated or governed rpm beyond the permissible end zone, unload the vehicle and/or increase the approach rpm in 100 rpm increments until the maximum rated or governed rpm is reached within the end zone, notwithstanding that approach engine speed may now exceed two-thirds of maximum rated or of full load governed engine speed.

(*4*) Should the maximum rated or governed rpm still be attained before entering the end zone, and the engine rpm during approach cannot be further lowered, begin acceleration at a point 10 feet closer to the beginning of the end zone. The approach rpm to be used is to be that rpm used prior to the moving of the acceleration point 10 feet closer to the beginning of the end zone.

(*5*) Should the maximum rated or governed rpm still be attained before entering the end zone, repeat the instructions in paragraph (c)(2)(i)(*c*)(*4*) of this section until maximum rated or governed rpm is attained within the end zone.

(ii) For the acceleration test, approach the acceleration point using the engine speed and gear ratio selected in paragraph (c)(2)(i) of this section and at the acceleration point rapidly establish wide-open throttle. The vehicle reference shall be as indicated in paragraph (b)(7) of this section. Acceleration shall continue until maximum rated or governed engine speed is reached.

(iii) Wheel slip which affects maximum sound level must be avoided.

(3) ***Measurements.***

(i) The meter shall be set for “fast response” and the A-weighted network.

(ii) The meter shall be observed during the period while the vehicle is accelerating or decelerating. The applicable reading shall be the highest sound level obtained for the run. The observer is cautioned to rerun the test if unrelated peaks should occur due to extraneous ambient noises. Readings shall be taken on both sides of the vehicle.

(iii) The sound level associated with a side shall be the average of the first two pass-by measurements for that side, if they are within 2 dB(A) of each other. Average of measurements on each side shall be computed separately. If the first two measurements for a given side differ by more than 2 dB(A), two additional measurements shall be made on each side, and the average of the two highest measurements on each side, within 2 dB(A) of each other, shall be taken as the measured vehicle sound level for that side. The reported vehicle sound level shall be the higher of the two averages.

(d) ***General requirements.***

(1) Measurements shall be made only when wind velocity is below 12 mph (19 km/hr).

(2) Proper usage of all test instrumentation is essential to obtain valid measurements. Operating manuals or other literature furnished by the instrument manufacturer shall be referred to for both recommended operation of the instrument and precautions to be observed. Specific items to be adequately considered are:

(i) The effects of ambient weather conditions on the performance of the instruments (for example, temperature, humidity, and barometric pressure).

(ii) Proper signal levels, terminating impedances, and cable lengths on multi-instrument measurement systems.

(iii) Proper acoustical calibration procedure to include the influence of extension cables, etc. Field calibration shall be made immediately before and after each test sequence. Internal calibration means is acceptable for field use, provided that external calibration is accomplished immediately before or after field use.

(3)

(i) A complete calibration of the instrumentation and external acoustical calibrator over the entire frequency range of interest shall be performed at least annually and as frequently as necessary during the yearly period to insure compliance with the standards cited in American National Standard S1.4-1971 “Specifications for Sound Level Meters” for a Type 1 instrument over the frequency range 50 Hz-10,000 Hz.

(ii) If calibration devices are utilized which are not independent of ambient pressure (e.g., a piston-phone) corrections must be made for barometric or altimetric changes according to the recommendation of the instrument manufacturer.

(4) The truck shall be brought to a temperature within its normal operating temperature range prior to commencement of testing. During testing appropriate caution shall be taken to maintain the engine temperatures within such normal operating range.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 11836, Mar. 1, 1977; 42 FR 61456, Dec. 5, 1977]

§ 205.54-2 Sound data acquisition system.

(a) Systems employing tape recorders and graphic level recorders may be established as equivalent to a Type I—ANSI S1.4-1971 sound level meter for use in determining compliance with this regulation by meeting the requirements of this section (§ 205.54-2(b)). This sound data acquisition system qualification procedure is based primarily on ANSI S6.1-1973.

(1) ***Performance requirements*** —

(i) ***System frequency response.*** It is required that the overall steady-state frequency response of the data acquisition system shall be within the tolerances prescribed in Table 205.1 when measured in accordance with section (2). The tolerances in Table 205.1 are applicable to either flat or A-weighted response. (See paragraph (a)(3)(iii) of this section.)

(ii) ***Detector response.*** To ensure that a (true) rms indication is provided, the difference between the level indicated for a 1000 Hz sinusoidal signal equivalent to a sound level of 86 dB (rms) and the level indicated for an octave band of random noise of equal energy as the sinusoidal signal centered at 1000 Hz shall be no greater than 0.5 dB. A true rms voltmeter shall be used to determine equivalence of two input signals.

(iii) ***Indicating meter.*** If an indicating meter is used to obtain sound levels or band pressure levels, it must meet the requirements of paragraphs (a)(1)(ii) and (vi)(B) of this section and the following.

TABLE 205.1—SYSTEM RESPONSE DATA

Freq. (hertz)	A-weighted response (Re-1000 Hz, dB)	Tolerance (decibels)	
		Plus—	Minus—
31.5	−39.4	1.5	1.5
40.0	−34.6	1.5	1.5
50.0	−30.2	1.0	1.0
63.0	−26.2	1.0	1.0
80.0	−22.5	1.0	1.0
100.0	−19.1	1.0	1.0
125.0	−16.1	1.0	1.0
160.0	−13.4	1.0	1.0
200.0	−10.9	1.0	1.0
250.0	−8.6	1.0	1.0
315.0	−6.6	1.0	1.0
400.0	−4.8	1.0	1.0
500.0	−3.2	1.0	1.0
630.0	−1.9	1.0	1.0
800.0	−.8	1.0	1.0
1,000.0	0	1.0	1.0
1,250.0	.6	1.0	1.0
1,600.0	1.0	1.0	1.0
2,000.0	1.2	1.0	1.0
2,500.0	1.3	1.0	1.0
3,150.0	1.2	1.0	1.0
4,000.0	1.0	1.0	1.0
5,000.0	.5	1.5	2.0
6,300.0	−.1	1.5	2.0
8,000.0	−1.1	1.5	3.0
10,000.0	−2.5	2.0	4.0
12,500.0	−4.3	3.0	6.0

(A) The scale shall be graduated in 1 dB steps.

(B) No scale indication shall be more than 0.2 dB different from the true value of the signal when an input signal equivalent to 86 dB sound level indicates correctly.

(C) Maximum indication for an input signal of 1000 Hz tone burst of 0.2 sec duration shall be within the range of −2 to 0 dB with respect to the steady-state indication for a 1000 Hz tone equivalent to 86 dB sound level.

(iv) ***Microphone.*** If microphone is used which has not been provided as a component of a precision sound level meter, it must be determined to meet the microphone characteristics described in IEC Publication 179, Precision Sound Level Meters.

(v) ***Magnetic tape recorders.*** No requirements are described in this document pertaining to tape recorders, except for frequency response. Generally, recorders of adequate quality to provide the frequency response performance required will also meet other minimum requirements for distortion, signal-to-noise ratio, etc.

(vi) ***Graphic level recorder dynamic response.*** When using a graphic level recorder, it is necessary to select pen response settings such that the readings obtained are statistically equivalent to those obtained by directly reading a meter which meets the "fast" dynamic requirement of a precision sound level meter indicating meter system for the range of vehicles to be tested. To ensure statistical equivalence, at least 30 comparative observations of real test data shall be made and the average of the absolute value of the differences observed shall be less than 0.5 dB. The settings described in this paragraph likely assure appropriate dynamic response; however, different settings may be selected on the basis of the above requirement.

(A) Use a pen writing speed of nominally 60-100 dB/sec. If adjustable, low frequency response should be limited to about 20 Hz.

(B) Indicated overshoot for a suddenly applied 1000 Hz sinusoidal signal equivalent to 86 dB sound level shall be no more than 1.1 dB and no less than 0.1 dB.

(2) ***Frequency response qualification procedure.***

(i) Typical noise measurement and analysis configurations are shown in Figures 205.2 through 205.4. The qualification procedure described herein duplicates these configurations, but with the microphone replaced by an electronic sinewave oscillator. Caution should be exercised when connecting an oscillator to the input of a sound level meter to ensure, perhaps by using a resistive voltage divider network, that the input is not overloaded (see § 205.54-2(a)(2)(ii)).

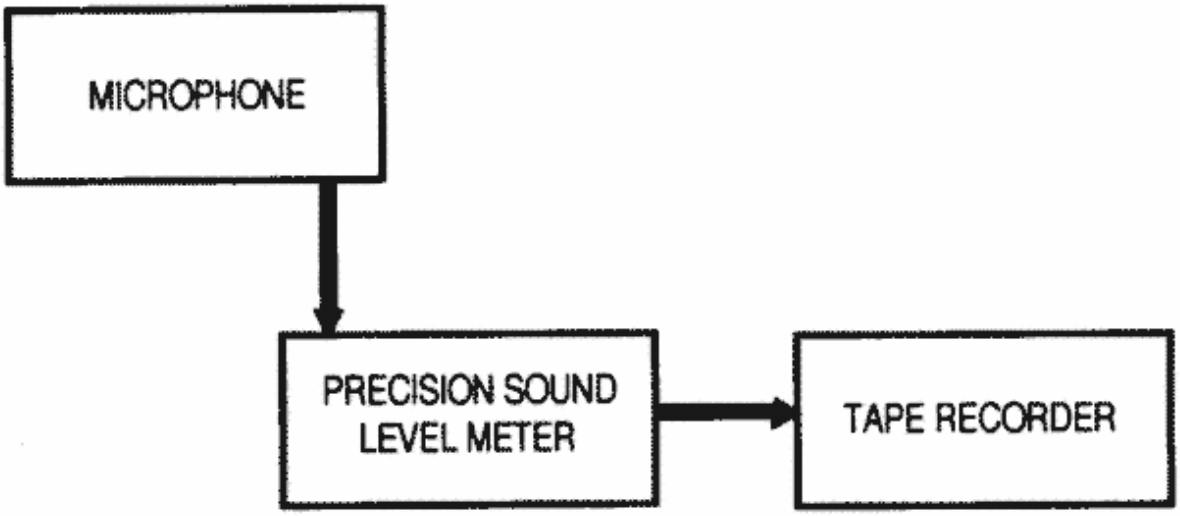


FIGURE 205.2 DATA RECORDING

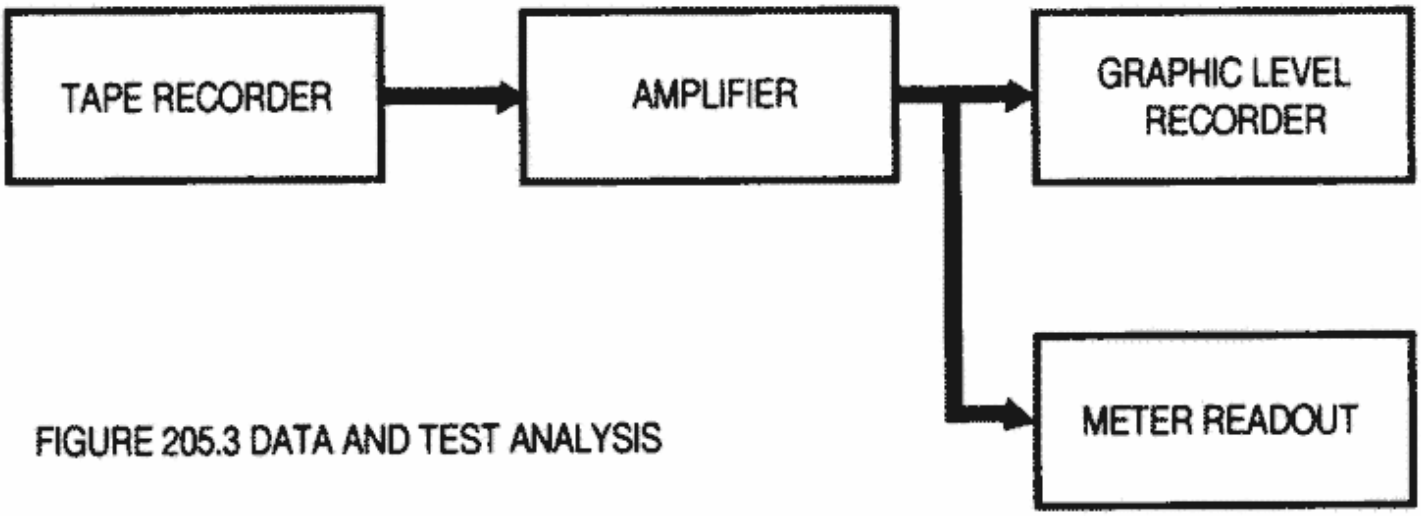


FIGURE 205.3 DATA AND TEST ANALYSIS

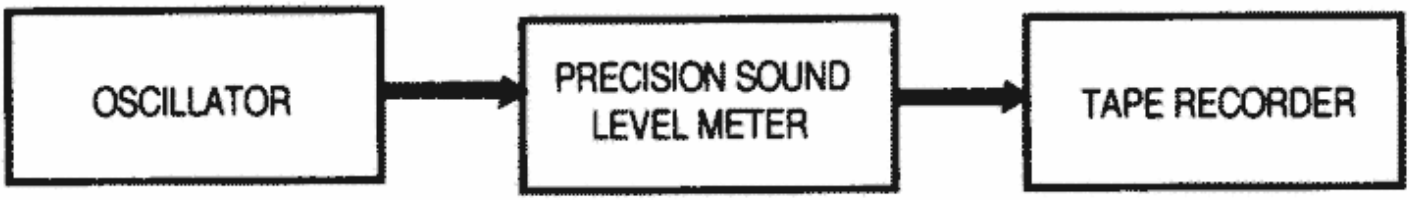


FIGURE 205.4 TEST RECORDING

(ii) Calibrate the oscillator to be used by measuring its output relative to the voltage which is equivalent to 86 dB sound level at each of the 27 frequencies listed in Table 205.1 using an electronic voltmeter of known calibration. Record the result in voltage level in dB re voltage corresponding to 86 dB sound level at 1000 Hz. This will describe the frequency response characteristics of the oscillator.

(iii) If a graphic level recorder is to be used, connect it to the oscillator output. If the oscillator and graphic level recorder can be synchronized, slowly sweep the frequency over the range of 31.5 to 12,500 Hz, recording the oscillator output. If they cannot be synchronized, record oscillator output for signals at the 27 frequencies given in Table 205.1. The differences between the combined response thus obtained and the oscillator response obtained previously will describe the frequency response of the graphic level recorder.

(iv) If visual observation of an indicating meter is to be used for obtaining data, the oscillator should be connected to the indicating meter input (such as the microphone input of a sound level meter) and the meter reading observed for a fixed oscillator output voltage setting for signals at the 27 frequencies given in Table 205.1.

(v) To check a tape recorder, connect the instruments as shown in Figure 205.4. Using a 1000 Hz tone, adjust the oscillator output level to obtain a reading 15 dB below maximum record level. If the synchronized oscillator/graphic level recorder system is to be used for analysis, record an oscillator sweep over the range of 31.5 to 12,500 Hz, using an appropriate tape recorder input attenuator setting. Alternatively, tape-record frequency tones at the 27 frequencies given in Table 205.1. Replay the tape recordings using the setup shown in Figure 205.3. Record the data on a graphic level recorder or through visual observation of the indicating meter. Subtract the oscillator frequency response in paragraph (b)(2) of this section from the response obtained through the record-playback sequence to obtain the record/reproduce frequency response of the system except for the microphone.

(vi) To obtain the overall system frequency response, add the manufacturer's microphone calibration data to the response just obtained. This may be the frequency response for the specific microphone to be used, including calibration tolerances. Alternatively, use the manufacturer's “typical” microphone response plus and minus the maximum deviation expected from “typical” including calibration tolerances. Use the microphone response curve which corresponds to the manner in which it is used in the field. It may be required to add a correction to the response curves provided to obtain field response; refer to the manufacturer's manual.

(vii) Adjustment or repair of equipment may be required to obtain response within the requirements of paragraph (a) of this section. After any adjustments, the system shall be requalified according to paragraph (b) of this section.

(3) ***General comments.***

(i) Calibrate tape recorders using the brand and type of magnetic tape used for actual data acquisition. Differences in tape can cause an appreciable variation in the recorder/reproduce frequency response characteristics of tape recorder.

(ii) It shall be ensured that the instrumentation used will perform within specifications and applicable tolerances over the temperature, humidity, and other environmental variation ranges which may be encountered in vehicle noise measurement works.

(iii) Qualification tests shall be performed using equipment (including cables) and recording and playback techniques identical with those used while recording vehicle noise. For example, if weighted sound level data are normally recorded use similar weighting and apply the tolerances of Table 205.1 to the weighting curve for comparison with record-playback curves. Precautions should also be taken to ensure that source and load impedances are appropriate to the device being tested. Other data acquisition systems may use any combination of microphones, sound level meters, amplifiers, tape recorders, graphic level recorders, or indicating meters. The same approach to qualifying such a system shall be taken as described in this document for the systems depicted in Figures 205.2, 205.3 and 205.4.

(b) Systems other than those specified in §§ 205.54-1(a) and 205.54-2(a) may be used for establishing compliance with this regulation. In each case the system must yield sound levels which are equivalent to those produced by a sound level meter Type 1 ANSI S1.4-1971. The manufacturer bears the burden of demonstrating such equivalence.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61456, Dec. 5, 1977; 47 FR 57714, Dec. 28, 1982]

§ 205.55 Requirements.

§ 205.55-1 General requirements.

(a) Every new vehicle manufactured for distribution in commerce in the United States which is subject to the standards prescribed in this subpart and not exempted in accordance with § 205.5:

(1) Shall be labeled in accordance with the requirements of § 205.55-5 of this subpart.

(2) Shall conform to the applicable noise emission standard established in § 205.52 of this regulation.

(b) The requirements of paragraph (a) apply to new products which conform to the definition of vehicles in these regulations and at the time such new products are assembled to that state of completeness in which the manufacturer distributes them in commerce.

(c) Subsequent manufacturers of a new product which conforms to the definition of vehicle in these regulations when received by them from a prior manufacturer, need not fulfill the requirements of paragraph (a)(1) where such requirements have already been complied with by a prior manufacturer.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61456, Dec. 5, 1977; 47 FR 57714, Dec. 28, 1982]

§ 205.55-2 Compliance with standards.

(a)

(1) Prior to distribution in commerce of vehicles of a specific configuration, the first manufactures of such vehicles must verify such configurations in accordance with the requirements of this subpart.

(2) [Reserved]

(3) At any time following receipt of notice under this section with respect to a configuration, the Administrator may require that the manufacturer ship test vehicles to the EPA test facility in order for the Administrator to perform the tests required for production verification.

(b) The requirements for purposes of testing by the Administrator and selective enforcement auditing with regard to each vehicle configuration consist of:

(1) Testing in accordance with § 205.54 of a vehicle selected in accordance with § 205.57-2, and

(2) Compliance of the test vehicle with the applicable standard when tested in accordance with § 205.54.

(c)

(1) In lieu of testing vehicles of every configuration as described in paragraph (b) of this section, the manufacturer may elect to verify the configuration based on representative testing, the requirements of which consist of:

(i) Grouping configurations into a category where each category will be determined by a separate combination of at least the following parameters (a manufacturer may use more parameters):

(*a*) ***Engine type.***

(*1*) Gasoline—two stroke cycle.

(*2*) Gasoline—four stroke cycle.

(*3*) Diesel—two stroke cycle.

(*4*) Diesel—four stroke cycle.

(*5*) Rotary—wankel.

(*6*) Turbine.

(*7*) Other.

(*b*) ***Engine manufacturer.***

(*c*) ***Engine displacement.***

(*d*) ***Engine configuration*** (e.g., L-6, V-8, etc.).

(*e*) ***Series*** (*i.e.*, cab design) including but not limited to conventional, cab over engine, and cab forward.

(ii) Identifying the configuration within each category which emits the highest sound pressure level (dBA) based on his best technical judgment and/or emission test data;

(iii) Testing in accordance with § 205.54 of a vehicle selected in accordance with § 205.57-2 which must be a vehicle of the configuration which is identified pursuant to paragraph (c)(1)(ii) of this section as having the highest sound pressure level (estimated or actual) within the category; and

(iv) Compliance of the test vehicle with applicable standards when tested in accordance with § 205.54.

(2) Where the requirements of paragraph (c)(1) are complied with, all those configurations contained within a category are considered represented by the tested vehicle.

(3) Where the manufacturer tests a vehicle configuration which has not been determined as having the highest sound pressure level of a category, but all other requirements of paragraph (c)(1) of this section are complied with all those configurations contained with that category which are determined to have sound pressure levels no greater than the tested vehicle are considered to be represented by the tested vehicle, however, a manufacturer must for purposes of Testing by the

Administrator and Selective Enforcement Auditing verify according to the requirements of paragraphs (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher sound pressure level than the vehicle configuration tested.

(d) [Reserved]

(e) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any vehicle determined not in compliance with applicable standards.

(1) In the case of representative testing a new test vehicle from another configuration must be selected according to the requirements of paragraph (c) of this section, in order to verify the configurations represented by the non-compliant vehicle.

(2) Modify the test vehicle and demonstrate by testing that it meets applicable standards. The manufacturer must modify all production vehicles of the same configuration in the same manner as the test vehicle before distribution into commerce.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61458, Dec. 5, 1977; 47 FR 57714, Dec. 28, 1982; 48 FR 27040, June 13, 1983]

§ 205.55-3 Configuration identification.

(a) A separate vehicle configuration shall be determined by each combination of the following parameters:

(1) ***Exhaust system configuration.***

(i) Single vertical.

(ii) Dual vertical.

(iii) Single horizontal.

(iv) Dual horizontal.

(2) ***Air induction system*** (*engine*).

(i) Natural.

(ii) Turbocharged.

(3) ***Fan.***

(i) Diameter.

(ii) Drive.

(*a*) Direct.

(*b*) Thermostatic.

(iii) Max fan rpm.

(4) ***Engine manufacturer's horsepower rating.***

(5) ***Cab characteristic.***

(i) Sleeper.

(ii) Non sleeper.

(6) *Category parameters listed in § 205.55-2.*

§ 205.55-4 Labeling-compliance.

(a)

(1) The manufacturer of any vehicle subject to the provisions of § 205.52 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all such vehicles to be distributed in commerce. The labels shall be affixed in such a manner that they cannot be removed without destroying or defacing them, and shall not be affixed to any equipment which is easily detached from such vehicle.

(2) A label shall be permanently attached, in a readily visible position, in the operator's compartment.

(3) Labels for vehicles not manufactured solely for use outside the United States shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Noise Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Month and year of manufacture;

(iv) The statement:

> This Vehicle Conforms to U.S. EPA Regulations for Noise Emission Applicable to Medium and Heavy Trucks.
>
> The following acts or the causing thereof by any person are prohibited by the Noise Control Act of 1972:
>
> (A) The removal or rendering inoperative, other than for purposes of maintenance, repair, or replacement, of any noise control device or element of design (listed in the owner's manual) incorporated into this vehicle in compliance with the Noise Control Act;
>
> (B) The use of this vehicle after such device or element of design has been removed or rendered inoperative.

(b) Labels for vehicles manufactured solely for use outside the United States shall contain the words “For Export Only.”

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61456, 61458, Dec. 5, 1977. Redesignated at 47 FR 57715, Dec. 28, 1982]

§ 205.55-5 Labeling-exterior. [Reserved]

§ 205.56 Testing by the Administrator.

(a)

(1) The Administrator may require that any vehicles to be tested pursuant to the Act be submitted to him, at such place and time as he may reasonably designate and in such quantity and for such time as he may reasonably require for the purpose of conducting tests in accordance with test

procedures described in § 205.54 to determine whether such vehicles or a manufacturer's test facility conform to applicable regulations. It is a condition of the requirements under this section that the manner in which the Administrator conducts such tests, the EPA test facility itself, and the test procedures he employs shall be based upon good engineering practice and meet or exceed the requirements of § 205.54 of the regulations.

(2) The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment of the type required by these regulations shall be made available by the manufacturer for test operations. The Administrator may conduct such tests with his own equipment, which shall equal or exceed the performance specifications of the instrumentation or equipment specified by the Administrator in these regulations.

(3) The manufacturer may observe tests conducted by the Administrator pursuant to this section on vehicles produced by such manufacturer and may copy the data accumulated from such tests. The manufacturer may inspect any such vehicles before and after testing by the Administrator.

(b)

(1) If, based on tests conducted by the Administrator or other relevant information, the Administrator determines that the test facility does not meet the requirements of § 205.54-1 (a) and (b) he will notify the manufacturer in writing of his determination and the reasons therefor.

(2) The manufacturer may at any time within 15 days after receipt of a notice issued under paragraph (b)(1) of this section request a hearing conducted in accordance with 5 U.S.C. 554 on the issue of whether his test facility was in conformance. Such notice will not take effect until 15 days after receipt by the manufacturer, or if a hearing is requested under this paragraph, until adjudication by the hearing examiner.

(3) After any notification issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from such test facility will be acceptable for purposes of this part.

(4) The manufacturer may request in writing that the Administrator reconsider his determination under paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(5) The Administrator will notify the manufacturer of his determination and an explanation of the reasons underlying it with regard to the requalification of the test facility within 10 working days after receipt of the manufacturer's request for reconsideration pursuant to paragraph (b)(4) of this section.

(c)

(1) The Administrator will assume all reasonable costs associated with shipment of vehicles to the place designated pursuant to paragraph (a) of this section except with respect to:

(i) [Reserved]

(ii) Testing of a reasonable number of vehicles for purposes of selective enforcement auditing under § 205.57 or testing of smaller numbers of vehicles, if the manufacturer has failed to establish that there is a correlation between its test facility and the EPA test facility or the Administrator has reason to believe, and provides the manufacturer a statement of such

reasons, that the vehicles to be tested would fail to meet the standard prescribed in this subpart if tested at the EPA test facility, but would meet such standard if tested at the manufacturer's test facility;

(iii) Any testing performed during a period when a notice of nonconfor- mance of the manufacturer's test facility issued pursuant to paragraph (b) of this section is in effect;

(iv) Any testing performed at place other than the manufacturer's facility as a result of the manufacturer's failure to permit the Administrator to conduct or monitor testing as required by this part.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61456, 61459, Dec. 5, 1977; 47 FR 57715, Dec. 28, 1982]

§ 205.57 Selective enforcement auditing requirements.

§ 205.57-1 Test request.

(a) The Administrator will request all testing under § 205.57 by means of a test request addressed to the manufacturer.

(1) Except as provided in paragraphs (a) (2) and (3) of this section, the Administrator will not issue to a manufacturer during any model year more test requests than a number determined by dividing the total number of vehicles subject to this regulation which the manufacturer projects he will produce during that model year by 25,000 and rounding to the next higher whole number: Except, that the Administrator may issue one additional test request beyond the annual limit to any manufacturer for each time a batch sequence for any category, configuration or subgroup thereof of such manufacturer's production is rejected in accordance with § 205.57-7.

(2) Any test request issued against a category, configuration or subgroup thereof which the Administrator has reason to believe does not meet the standards specified in § 205.52 will not be counted against the annual limit on test requests described in paragraph (a)(1) of this section. Any such request shall include a statement of the Administrator's reason for such belief.

(3) Any test request under which testing is not completed will not be counted against the annual limit on test requests described in paragraph (a)(1) of this section.

(b) The test request will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered by an EPA Enforcement Officer to the plant manager or other responsible official as designated by the manufacturer.

(c) The test request will specify the vehicle category, configuration or subgroup thereof selected for testing, the batch from which sampling is to begin, the batch size, the manufacturer's plant or storage facility from which the vehicles must be selected, the time at which a vehicle must be selected. The test request will also provide for situations in which the selected configuration or category is unavailable for testing. The test request may include an alternative category or configuration selected for testing in the event that vehicles of the first specified category or configuration are not available for testing because the vehicles are not being manufactured at the specified plant and/or are not being manufactured during the specified time or not being stored at the specified plant or storage facility.

(d) Any manufacturer shall, upon receipt of the test request, select and test a batch sample of vehicles from two consecutively produced batches of the vehicle category or configurations specified in the test request in accordance with these regulations and the conditions specified in the test request.

(e)

(1) Any testing conducted by the manufacturer pursuant to a test request shall be initiated within such period as is specified within the test request: Except, that such initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions, or other conditions beyond the control of the manufacturer, in any 24-hour period do not permit testing: *Provided,* That these conditions for that period are recorded.

(2) The manufacturer shall complete emission testing on a minimum of five vehicles per day unless otherwise provided for by the Administrator or unless ambient test site conditions only permit the testing of a lesser number: *Provided,* that ambient test site weather conditions for that period are recorded.

(3) The manufacturer will be allowed 24 hours to ship vehicles from a batch sample from the assembly plant to the testing facility if the facility is not located at the plant or in close proximity to the plant: Except, that the Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) The Administrator may issue an order to the manufacturer to cease to distribute into commerce vehicles of a specified category or configuration being manufactured at a particular facility if:

(1) The manufacturer refuses to comply with the provisions of a test request issued by the Administrator pursuant to this section; or

(2) The manufacturer refuses to comply with any of the requirements of this section.

(g) A cease-to-distribute order shall not be issued under paragraph (f) of this section if such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with the provisions of a test request or any other requirements of this section. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment break-down or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(h) Any such order shall be issued only after a notice and opportunity for a hearing.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61459, Dec. 5, 1977; 43 FR 12326, Mar. 24, 1978]

§ 205.57-2 Test vehicle sample selection.

(a) Vehicles comprising the batch sample which are required to be tested pursuant to a test request in accordance with this subpart will be selected in the manner specified in the test request from a batch of vehicles of the category or configuration specified in the test request. If the test request specifies that the vehicles comprising the batch sample must be selected randomly, the random selection will be achieved by sequentially numbering all of the vehicles in the batch and then using a table of random numbers to select the number of vehicles as specified in paragraph (c) of this section based on the batch size designated by the Administrator in the test request. An alternative random selection plan may be used by a manufacturer: *Provided,* That such a plan is approved by the Administrator. If the test request does not specify that test vehicles must be randomly selected, the manufacturer shall select test vehicles consecutively.

(1) Should a situation arise in which the configuration to be tested consists of only vehicles with automatic transmissions, they shall be tested in accordance with § 205.54-1(c)(2).

(2) If the configuration to be tested consists of both automatic transmission and standard transmission vehicles, the test vehicle shall be a standard transmission vehicle unless the manufacturer has reason to believe that the automatic transmission vehicle emits a greater sound level.

(b) The Acceptable Quality Level is 10 percent. The appropriate sampling plans associated with the designated AQL are contained in Appendix I, Table II.

(c) The appropriate batch sample size will be determined by reference to Appendix I, Table I and II. A code letter is obtained from Table I based on the batch size designated by the Administrator in a test request. The batch sample size will be obtained from Table II. The batch sample size will be equal to the maximum cumulative sample size for the appropriate code letter obtained from Table I plus an additional 10 percent rounded off to the next highest number.

(d) If the test request specifies that vehicles comprising the batch sample must be selected randomly, individual vehicles comprising the test sample will be randomly selected from the batch sample using the same random selection plan as in paragraph (a) of this section. Test sample size will be determined by entering Table II.

(e) The test vehicle of the category, configuration or subgroup thereof selected for testing shall have been assembled by the manufacturer for distribution in commerce using the manufacturer's normal production process in accordance with § 205.55-5(a).

(f) Unless otherwise indicated in the test request, the manufacturer will select the batch sample from the production batch, next scheduled after receipt of the test request, of the category or configuration specified in the test request.

(g) Unless otherwise indicated in the test request, the manufacturer shall select the vehicles designated in the test request for testing.

(h) At their discretion, EPA Enforcement Officers, rather than the manufacturer, may select the vehicles designated in the test request.

(i) The manufacturer will keep on hand all vehicles in the batch sample until such time as the batch is accepted or rejected in accordance with § 205.57-6: Except, that vehicles actually tested and found to be in conformance with these regulations need not be kept.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61459, Dec. 5, 1977; 47 FR 57715, Dec. 28, 1982; 48 FR 27039, June 13, 1983]

§ 205.57-3 Test vehicle preparation.

(a) Prior to the official test, the test vehicle selected in accordance with § 205-57-2 shall not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparation, modification and/or tests are part of the manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal vehicle assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. For purposes of this section, prescribed manufacturing and inspection procedures include quality control testing and assembly procedures normally performed by the manufacturer on like products during early production so long as the resulting testing is not biased by the

procedure. In the case of imported products the manufacturer may perform adjustments, preparations, modification and/or tests normally performed at the port of entry by the manufacturer to prepare the vehicle for delivery to a dealer or customer.

(b) Equipment or fixtures necessary to conduct the test may be installed on the vehicle: *Provided,* That such equipment or fixtures shall have no effect on the noise emissions of the vehicle, as determined by measurement methodology.

(c) In the event of vehicle malfunction (*i.e.*, failure to start, misfiring cylinder, etc.) the manufacturer may perform the maintenance that is necessary to enable the vehicle to operate in a normal manner.

(d) No quality control, testing, assembly or selection procedures shall be used on the completed vehicle or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other vehicles of the category which will be distributed in commerce, unless such procedures are required or permitted under this subpart.

[47 FR 57715, Dec. 28, 1982; 48 FR 27039, June 13, 1983]

§ 205.57-4 Testing procedures.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 205.54 of this subpart for each vehicle selected for testing pursuant to this subpart.

(b) No maintenance will be performed on test vehicles except as provided for by § 205.57-3. In the event a vehicle is unable to complete the emission test, the manufacturer may replace the vehicle. Any replacement vehicle will be a production vehicle of the same configuration as the replaced vehicle. It will be randomly selected from the batch sample and will be subject to all the provisions of these regulations.

§ 205.57-5 Reporting of the test results.

(a) Within 5 working days after completion of testing of all vehicles in a batch sample the manufacturer shall submit to the Administrator a final report which will include the information required by the test request in the format stipulated in the test request in addition to the following:

(1) The name, location, and description of the manufacturer's emission test facilities which meet the specifications of § 205.54 and were utilized to conduct testing reported pursuant to this section: Except, that a test facility that has been described in a previous submission under this subpart need not again be described but must be identified as such.

(2) A description of the random vehicle selection method used, referencing any tables of random numbers that were used, name of the person in charge of the random number selection, if the vehicle test request specifies a random vehicle selection.

(3) The following information for each noise emission test conducted,

(i) The completed data sheet required by § 205.54 for all noise emission tests including: For each invalid test, the reason for invalidation.

(ii) A complete description of any modification, repair, preparation, maintenance, and/or testing which could affect the noise emissions of the vehicle and which was performed on the test vehicle but will not be performed on all other production vehicles.

(iii) The reason for the replacement where a replacement vehicle was authorized by the Administrator, and, if any, the test results for the replaced vehicles.

(4) A complete description of the sound data acquisition system if other than those specified in §§ 205.54-1(a) and 205.54-2(a).

(5) The following statement and endorsement:

> This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. To the best of _____(company name) knowledge, all testing for which data are reported herein was conducted in strict conformance with applicable regulations under 40 CFR 205.1 *et seq.,* all the data reported herein are a true and accurate representation of such testing and all other information reported herein is true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.
>
> (authorized representative)

(b) All information required to be forwarded to the Administrator pursuant to this section shall be addressed to Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, DC 20460.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61459, Dec. 5, 1977; 43 FR 12326, Mar. 24, 1978]

§ 205.57-6 Acceptance and rejection of batches.

(a) The batch from which a batch sample is selected will be accepted or rejected based upon the number of failing vehicles in the batch sample. A sufficient number of test samples will be drawn from the batch sample until the cumulative number of failing vehicles is less than or equal to the acceptance number or greater than or equal to the rejection number appropriate for the cumulative number of vehicles tested. The acceptance and rejection numbers listed in Appendix I, Table II at the appropriate code letter obtained according to § 205.57-2 will be used in determining whether the acceptance or rejection of a batch has occurred.

(b) Acceptance or rejection of a batch takes place when the decision that a vehicle is a failing vehicle is made on the last vehicle required to make a decision under paragraph (a) of this section.

§ 205.57-7 Acceptance and rejection of batch sequence.

(a) The manufacturer will continue to inspect consecutive batches until the batch sequence is accepted or rejected based upon the number of rejected batches. A sufficient number of consecutive batches will be inspected until the cumulative number of rejected batches is less than or equal to the sequence acceptance number of greater than or equal to the sequence rejection number appropriate for the cumulative number of batches inspected. The acceptance and rejection numbers listed in Appendix I, Table III at the appropriate code letter obtained according to § 205.57-2 will be used in determining whether the acceptance or rejection of a batch sequence has occurred.

(b) Acceptance or rejection of a batch sequence takes place when the decision that a vehicle is a failiing vehicle is made on the last vehicle required to make a decision under paragraph (a) of this section.

(c) If the batch sequence is accepted, the manufactureer will not be required to perform any additional testing on vehicles from subsequent batches pursuant to the initiating test request.

(d) The Administrator may terminate testing earlier than required in paragraph (b) of this section based on a request by the manufacturer accompanied by voluntary cessation of distribution in commerce, of vehicles from the category, configuration or subgroup in question manufactured at the plant which produced the

vehicles under test: *Provided,* That before reinitiating distribution in commerce of vehicles from such plant of such vehicle category, configuration or subgroup, the manufacturer must take the action described in § 205.57-9(a)(1) and (a)(2).

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61460, Dec. 5, 1977]

§ 205.57-8 Continued testing.

(a) If a batch sequence is rejected in accordance with paragraph (b) of § 205.57-7, the Administrator may require that any or all vehicles of that category, configuration of subgroup thereof produced at that plant be tested before distribution in commerce.

(b) The Administrator will notify the manufacturer in writing of his intent to require such continued testing of vehicles pursuant to paragraph (a) of this section.

(c) The manufacturer may request a hearing on the issues of whether the selective enforcement audit was conducted properly; whether the criteria for batch sequence rejection in § 204.57-7 have been met; and, the appropriateness or scope of a continued testing order. In the event that a hearing is requested, the hearing shall begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress shall affect the reponsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

(d) Any tested vehicle which demonstrated conformance with the applicable standards may be distributed into commerce.

(e) Any knowing distribution into commerce of a vehicle which does not comply with the applicable standards is a prohibited act.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61460, Dec. 5, 1977; 44 FR 54296, Sept. 19, 1979]

§ 205.57-9 Prohibition on distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the cessation of continued testing under § 205.57-8 once the manufacturer has taken the following actions:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the vehicles, describes the problem and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change. Such requirements include the following:

(i) Any change to a configuration with respect to any of the parameters stated in § 205.55-3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(ii) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with § 205.55-2.

(iii) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower sound pressure level than a previously verified configuration within the same category, the configuration shall be considered verified.

(2) Demonstrates that the specified vehicle category, configuration or subgroup thereof has passed a retest conducted in accordance with § 205.57 and the conditions specified in the initial test request.

(3) The manufacturer may begin testing under paragraph (a)(2) of this section upon submitting such report, and may cease continued testing upon making the demonstration required by paragraph (a)(2) of this section, provided that the Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of paragraphs (a)(1) and (2) of this section.

(b) Any vehicle failing the prescribed noise emission tests conducted pursuant to this Subpart B may not be distributed in commerce until necessary adjustments or repairs have been made and the vehicle passes a retest.

(c) No vehicles of a rejected batch which are still in the hands of the manufacturer may be distributed in commerce unless the manufacturer has demonstrated to the satisfaction of the Administrator that such vehicles do in fact conform to the regulations: Except, that any vehicle that has been tested and does, in fact, conform with these regulations may be distributed in commerce.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61460, Dec. 5, 1977; 47 FR 57715, Dec. 28, 1982]

§ 205.58 In-use requirements.

§ 205.58-1 Warranty.

(a) The vehicle manufacturer shall include the owner's manual or in other information supplied to the ulitmate purchaser the following statement:

> ### Noise Emissions Warranty
>
> (Name of vehicle manufacturer) warrants to the first person who purchases this vehicle for purposes other than resale and to each subsequent purchaser that this vehicle as manufactured by (names of vehicle manufacturer), was designed, built and equipped to conform at the time it left (name of vehicle manufacturer)'s control with all applicable U.S. EPA Noise Control Regulations.
>
> This warranty covers this vehicle as designed, built and equipped by (Name of vehicle manufacturer), and is not limited to any particular part, component or system of the vehicle manufactured by (name of vehicle manufacturer). Defects in design, assembly or in any part, component or system of the vehicle as manufactured by (name of vehicle manufacturer), which, at the time it left (name of vehicle manufacturer)'s control, caused noise emissions to exceed Federal standards, are covered by this warranty for the life of the vehicle.

(b) [Reserved]

[41 FR 15544, Apr. 13, 1976, as amended at 47 FR 57715, Dec. 28, 1982; 48 FR 27040, June 13, 1983]

§ 205.58-2 Tampering.

(a) For each configuration of vehicles covered by this part, the manufacturer shall develop a list of those acts which, in his judgment, might be done to the vehicle in use and which would constitute the removal or rendering inoperative of noise control devices or elements of design of the vehicle.

(b) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

> ## Tampering With Noise Control System Prohibited
>
> Federal law prohibits the following acts or the causing thereof:
>
> (1) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new vehicle for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use; or (2) the use of the vehicle after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

> Among those acts presumed to constitute tampering are the acts listed below.

Immediately following this statement, the manufacturer shall include the list developed under paragraph (a) of this section.

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a proscribed act has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle or that the vehicle still meets the noise emission standard of § 205.52, such act will not constitute tampering.

(d) The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing its own prohibitions against the removal or rendering inoperative of noise control systems on vehicles subject to this part.

[41 FR 15544, Apr. 13, 1976, as amended at 47 FR 57715, Dec. 28, 1982; 48 FR 27040, June 13, 1983]

§ 205.58-3 Instructions for maintenance, use and repair.

(a)

(1) The manufacturer shall provide to the ultimate purchaser of each vehicle covered by this subpart written instructions for the proper maintenance, use and repair of the vehicle in order to provide reasonable assurance of the elimination or minimization of noise emission degradation throughout the life of the vehicle.

(2) The purpose of the instructions is to inform purchasers and mechanics of those acts necessary to reasonably assure that degradation of noise emission level is eliminated or minimized during the life of the vehicle. Manufacturers should prepare the instructions with this purpose in mind. The instructions should be clear and, to the extent practicable, written in nontechnical language.

(3) The instructions must not be used to secure an unfair competitive advantage. They should not restrict replacement equipment to original equipment or service to dealer service. Manufacturers who so restrict replacement equipment should be prepared to make public any performance specifications on such equipment.

(b) For the purpose of encouraging proper maintenance, the manufacturer shall provide a record or log book which shall contain a schedule for the performance of all required noise emission control maintenance. Space shall be provided in this record book so that the purchaser can note what maintenance was done, by whom, where and when.

[41 FR 15544, Apr. 13, 1976, as amended at 47 FR 57716, Dec. 28, 1982]

§ 205.59 Recall of noncomplying vehicles.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall and repair or modify any vehicle distributed in commerce not in compliance with this subpart.

(b) A recall order issued pursuant to this section shall be based upon a determination by the Administrator that vehicles of a specified category or configuration have been distributed in commerce which do not conform to the regulations. Such determination may be based on:

(1) A technical analysis of the noise emission characteristics of the category or configuration in question; or

(2) Any other relevant information, including test data.

(c) For the purposes of this section, noise emissions may be measured by any test prescribed in § 205.54 for testing prior to sale or any other test which has been demonstrated to correlate with the prescribed test procedure.

(d) Any such order shall be issued only after notice and an opportunity for a hearing.

(e) All costs, including labor and parts, associated with the recall and repair or modification of non-complying vehicles under this section shall be borne by the manufacturer.

(f) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

Appendix I to Subpart B of Part 205

TABLE I—SAMPLE SIZE CODE LETTERS

Batch size	Code letter
4 to 8	A.
9 to 15	B.
16 to 25	C.

Batch size	Code letter
26 and larger	D.

TABLE II—SAMPLING PLANS FOR INSPECTING BATCHES

Sample size code letter	Test sample	Test sample size	Cumulative test sample size	Batch inspection criteria	
				Acceptance No.	Rejection No.
A	1st	4	4	0	1
B	1st	3	3	0	1
C	1st	3	3	0	2
	2d	3	6	1	2
D	1st	2	2	([1])	2
	2d	2	4	([1])	2
	3d	2	6	0	2
	4th	2	8	0	3
	5th	2	10	1	3
	6th	2	12	1	3
	7th	2	14	2	3

[1] *Batch acceptance not permitted at this sample size.*

TABLE III—BATCH SEQUENCE PLANS

Sample size code letter	Number of batches	Cumulative number of batches	Sequence inspection criteria	
			Acceptance No.	Rejection No.
A	2	2	1	([2])
	2	4	2	4
	2	6	3	5
	2	8	4	5
B	2	2	0	([2])

[1] *Batch sequence acceptance not permitted for this number of batches.*

[2] *Batch sequence rejection not permitted for this number of batches.*

Sample size code letter	Number of batches	Cumulative number of batches	Sequence inspection criteria	
			Acceptance No.	Rejection No.
	2	4	1	4
	2	6	2	5
	2	8	3	5
	2	10	4	6
	2	12	5	6
C	2	2	([1])	2
	2	4	0	2
	2	6	0	3
	2	8	1	3
	2	10	2	4
	2	12	3	4
D	2	2	0	2
	2	4	1	3
	2	6	2	4
	2	8	3	4

[1] *Batch sequence acceptance not permitted for this number of batches.*

[2] *Batch sequence rejection not permitted for this number of batches.*

TABLE IV—RECOMMENDED FORMAT FOR VEHICLE NOISE DATA SHEET

Test Report Number:	Manufacturer:	
VEHICLE:		
Trade Name:	VIN:	
Model Year:	Other Reference No:	
Configuration Identification:	Category Identification:	
Test Site Identification and Location:		
INSTRUMENTATION:		
Microphone Manufacturer:	Model No:	Serial No:
Sound Level Manufacturer:	Model No:	Serial No:
Calibrator Manufacturer:	Model No:	Serial No:
Other and Manufacturer:	Model No:	Serial No:
TEST DATA:		
Approach Gear:	Date of Test:	

Approach RPM: Temp: Wind:
Acceleration Test:
Deceleration Test:

ACCELERATION TEST

		Run No.				
		1	2	3	4	5
dBA	Left					
	Right					
Highest RPM attained in End Zone						
	Calculated Sound Pressure		dBA			
	Deceleration Test with Exhaust Brake Applied					
dBA	Left					
	Right					
	Calculated Sound Pressure		dBA			

TEST Personnel:
(Name)
Recorded By: Date:.....
(Signature)
Supervisor: Title:.....
(Signature)

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61460, Dec. 5, 1977]

Subpart C [Reserved]

Subpart D—Motorcycles

Source: 45 FR 86708, Dec. 31, 1980, unless otherwise noted.

§ 205.150 Applicability.

(a) Except as otherwise provided in these regulations, the provisions of this subpart apply to 1983 and subsequent model year motorcycles manufactured after December 31, 1982, which meet the definition of "new product" in the Act.

(b) The provisions of this subpart do not apply to electric or battery-powered motorcycles.

(c) Except as provided in § 205.158, the provisions of this subpart do not apply to competition motorcycles as defined in § 205.151(a)(3).

§ 205.151 Definitions.

(a) As used in this subpart and in Subpart E, all terms not defined herein shall have the meaning given them in the Act or in Subpart A of this part.

(1) ***Motorcycle*** means any motor vehicle, other than a tractor, that:

(i) Has two or three wheels;

(ii) Has a curb mass less than or equal to 680 kg (1499 lb); and

(iii) Is capable, with an 80 kg (176 lb) driver, of achieving a maximum speed of at least 24 km/h (15 mph) over a level paved surface.

(2) ***Street motorcycle*** means:

(i) Any motorcycle that:

(A) With an 80 kg (176 lb) driver, is capable of achieving a maximum speed of at least 40 km/h (25 mph) over a level paved surface; and

(B) Is equipped with features customarily associated with practical street or highway use, such features including but not limited to any of the following: stoplight, horn, rear view mirror, turn signals: or

(ii) Any motorcycle that:

(A) Has an engine displacement less than 50 cubic centimeters;

(B) Produces no more than two brake horse power;

(C) With a 80 kg (176 lb) driver, cannot exceed 48 km/h (30 mph) over a level paved surface.

(3) ***Competition motorcycle*** means any motorcycle designed and marketed solely for use in closed course competition events.

(4) ***Off-road motorcycle*** means any motorcycle that is not a street motorcycle or competition motorcycle.

(5) ***Acceleration test procedure*** means the measurement methodologies specified in Appendix I.

(6) ***Acceptable quality level*** (AQL) means the maximum allowable average percentage of vehicles or exhaust systems that can fail sampling inspection under a Selective Enforcement Audit.

(7) ***Acoustical Assurance Period*** (AAP) means a specified period of time or miles driven after sale to the ultimate purchaser during which a newly manufactured vehicle or exhaust system, properly used and maintained, must continue in compliance with the Federal standard.

(8) ***Advertised Engine Displacement*** means the rounded off volumetric engine capacity used for marketing purposes by the motorcycle manufacturer.

(9) ***Category*** means a group of vehicle configurations which are identical in all material aspects with respect to the parameters listed in § 205.157-2 of this subpart.

(10) ***Class*** means a group of vehicles which are identical in all material aspects with respect to the parameters listed in § 205.155 of this subpart.

(11) ***Closed course competition event*** means any organized competition event covering an enclosed, repeated or confined route intended for easy viewing of the entire route by all spectators. Such events include short track, dirt track, drag race, speedway, hillclimb, ice race, and the Bonneville Speed Trials.

(12) ***Closing rpm*** means the engine speed in Figure 2 of Appendix I.

(13) ***Configuration*** means the basic classification unit of a manufacturer's product line and is comprised of all vehicle designs, models or series which are identical in all material aspects with respect to the parameters listed in § 205.157-3 of this subpart.

(14) ***Engine displacement*** means volumetric engine capacity as defined in § 205.153.

(15) ***Exhaust system*** means the combination of components which provides for the enclosed flow of exhaust gas from the engine exhaust port to the atmosphere. “Exhaust system” further means any constituent components of the combination which conduct exhaust gases and which are sold as separate products. “Exhaust System” does not mean any of the constituent components of the combination, alone, which do not conduct exhaust gases, such as brackets and other mounting hardware.

(16) ***Failing vehicle*** means a vehicle whose noise level is in excess of the applicable standard.

(17) ***Maximum rated RPM*** means the engine speed measured in revolutions per minute (RPM) at which peak net brake power (SAE J-245) is developed for motorcycles of a given configuration.

(18) ***Model specific code*** means the designation used for labeling purposes in §§ 205.158 and 205.169 for identifying the motorcycle manufacturer, class, and “advertised engine displacement,” respectively.

(19) ***Model year*** means the manufacturer's annual production period, which includes January 1 of any calendar year, or if the manufacturer has no annual production period, the term “model year” shall mean the calendar year.

(20) ***Motorcycle noise level*** means the A-weighted noise level of a motorcycle as measured by the acceleration test procedure.

(21) ***Noise control system*** means any vehicle part, component or system, the purpose of which includes control or the reduction of noise emitted from a vehicle, including all exhaust system components.

(22) ***Noise emission standard*** means the noise levels in § 205.152 or § 205.166.

(23) ***Noise emission test*** means a test conducted pursuant to a measurement methodology specified in this subpart.

(24) [Reserved]

(25) ***Serial number*** means the identification number assigned by the manufacturer to a specific production unit.

(26) ***Tampering*** means the removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 6, prior to its sale or delivery to the ultimate purchaser or while it is in use; or the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(27) ***Test vehicle*** means a vehicle in a Selective Enforcement Audit test sample.

(28) ***Tractor*** means for the purposes of this subpart, any two or three wheeled vehicle used exclusively for agricultural purposes, or for snow plowing, including self-propelled machines used exclusively in growing, harvesting or handling farm produce.

(29) ***Vehicle*** means any motorcycle regulated pursuant to this subpart.

(30) ***Warranty*** means the warranty required by section 6(d)(1) of the Act.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57720, Dec. 28, 1982]

§ 205.152 Noise emission standards.

(a) ***Noise emission standards.***

(1) Street motorcycles of the following and subsequent model years must not produce noise emissions in excess of the levels indicated:

(i) Street motorcycles other than those that meet the definition of § 205.151(a)(2)(ii):

Model year	A-weighted noise level (dB)
(A) 1983	83
(B) 1986	80

(ii) Street motorcycles that meet the definition of § 205.151(a)(2)(ii)(moped-type street motorcycles):

Model year	A-weighted noise level (dB)
(A) 1983	70

(2) Off-road motorcycles of the following and subsequent model years must not produce noise emissions in excess of the levels indicated:

(i) Off-road motorcycles with engine displacements of 170 cc and lower:

Model year	A-weighted noise level (dB)
(A) 1983	83
(B) 1986	80

(ii) Off-road motorcycles with engine displacements greater than 170 cc:

Model year	A-weighted noise level (dB)
(A) 1983	86
(B) 1986	82

(3) Street motorcycles must be designed, built and equipped so that, when properly maintained and used, they will not produce noise emissions in excess of the levels specified in paragraph (a)(1) of this section, for an Acoustical Assurance Period of one year or a distance of 6000 km (3730 mi) after the time of sale to the ultimate purchaser, whichever occurs first.

(4) Off-road motorcycles must be designed, built and equipped so that, when properly maintained and used, they will not produce noise emissions in excess of the levels specified in paragraph (a)(2) of this section, for an Acoustical Assurance Period of one year or a distance of 3000 km (1865 mi) after the time of sale to the ultimate purchaser, whichever occurs first.

(5) At the time of sale to the ultimate purchaser, all products must comply with the standards set forth in paragraphs (a)(1) and (2) of this section.

(b) ***Measurement procedure.***

(1) The standards set forth in paragraph (a) of this section refer to noise emissions as measured in accordance with the measurement methodology specified in Appendix I-1 for all motorcycles except those street motorcycles that meet the definition of § 205.151(a)(2)(ii).

(2) The standards set forth in paragraph (a) of this section for street motorcycles that meet the definition of § 205.151(a)(2)(ii) (moped-type street motorcycles) refer to noise emissions measured in accordance with the measurement methodology specified in Appendix I-2.

(c) ***Low noise emission product standard.*** For the purpose of Low-Noise-Emission Product certification pursuant to 40 CFR part 203, motorcycles procured by the Federal government after the following dates must not produce noise emissions in excess of the noise levels indicated:

(1) For street motorcycles with engine displacement greater than 170 cc:

Date	A-weighted noise level (dB)
(i) January 1, 1982	73
(ii) January 1, 1989	71

(2) For off-road motorcycles with engine displacements greater than 170 cc:

Date	A-weighted noise level (dB)
(i) January 1, 1982	75

(3) For off-road motorcycles with engine displacement 170 cc and lower and street motorcycles with engine displacement 170 cc and lower that do not meet the definition of § 205.151(a)(2)(ii):

Date	A-weighted noise level (dB)
(i) January 1, 1982	71

(4) For street motorcycles that meet the definition of § 205.151(a)(2)(ii) (moped-type street motorcycles):

Date	A-weighted noise level (dB)
(i) January 1, 1982	60

These levels refer to noise emissions as measured in accordance with the measurement methodologies specified in appendix I. LNEP's must also meet all requirements contained in paragraphs (a)(3), (4), and (5), of this section.

(Secs. 10 and 15 of the Noise Control Act, (42 U.S.C. 4909, 4914))

§ 205.153 Engine displacement.

(a) Engine displacement must be calculated using nominal engine values and rounded to the nearest whole cubic centimeter, in accordance with American Society for Testing Materials (ASTM) E 29-67.

(b) For rotary engines, displacement means the maximum volume of a combustion chamber between two rotor tip seals minus the minimum volume of that combustion chamber between those two rotor seals times three times the number of rotors.

cc = (Maximum chamber volume−minimum chamber volume) × 3 × number of rotors.

§ 205.154 Consideration of alternative test procedures.

The Administrator may approve applications from manufacturers of motorcycles for the approval of test procedures which differ from those contained in this subpart so long as the alternative procedures have been demonstrated to correlate with the prescribed procedure. To be acceptable, alternative test procedures must be such that the test results obtained will identify all those test motorcycles which would not comply with the noise emission standards prescribed in § 205.152 when tested in accordance with the measurement methodology specified in Appendix I. After approval by the Administrator, testing conducted by manufacturers using alternative test procedures will be accepted by the Administrator for all purposes including, but not limited to, selective enforcement audit testing.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57720, Dec. 28, 1982]

§ 205.155 Motorcycle class and manufacturer abbreviation.

(a) Motorcycles must be grouped into classes determined by separate combinations of the following parameters:

(1) Engine type:

(i) Gasoline—two stroke.

(ii) Gasoline—four stroke.

(iii) Gasoline—rotary.

(iv) Other.

(2) Engine displacement.

(3) Engine configuration:

(i) Number of cylinders.

(ii) Cylinder arrangement (*i.e.*, in line, opposed, etc.).

(4) Exhaust system:

(i) Muffler:

(A) Type,

(B) Location,

(C) Number.

(ii) Expansion chambers:

(A) Location,

(B) Size.

(iii) Spark arrestors.

(iv) Other exhaust system components.

§ 205.156 [Reserved]

§ 205.157 Requirements.

§ 205.157-1 General requirements.

(a) Each manufacturer of vehicles manufactured for distribution in commerce in the United States which are subject to the standards prescribed in this subpart and not exempted in accordance with Subpart A, § 205.5:

(1) Shall be labeled in accordance with the requirements of § 205.158 of this subpart.

(2) Must ensure that each vehicle conforms to the applicable noise emission standard establishd in § 205.152 of this subpart.

(b) The requirements of paragraph (a) of this section apply to new products which conform to the definition of vehicles in these regulations and at the time such new products are assembled to that state of completeness in which the manufacturer sends them to a subsequent manufacturer or otherwise distributes them in commerce.

(c) Subsequent manufacturers of a new product which conforms to the definition of vehicle in these regulations when received by them from a prior manufacturer, need not fulfill the requirements of paragraph (a)(1) of this section where such requirements have already been complied with by a prior manufacturer.

(d) The manufacturer who is required to conduct product verification testing to demonstrate compliance with a particular standard, must satisfy all other provisions of this subpart applicable to that standard, including but not limited to, record keeping, reporting and in-use requirements.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57720, Dec. 28, 1982]

§ 205.157-2 Compliance with standards.

(a)

(1) Prior to distribution in commerce of vehicles of a specific configuration, the first manufacturer of such vehicle must verify such configurations in accordance with the requirements of this subpart.

(2) [Reserved]

(3) At any time following receipt of notice under paragraph (a)(2)(iii) of this section with respect to a configuration, the Administrator may require that the manufacturer ship test vehicles to an EPA test facility for the required production verification testing.

(b) The requirements for purposes of testing by the Administrator and selective enforcement auditing with regard to each vehicle configuration consist of:

(1) Testing in accordance with § 205.160-4 of a vehicle selected in accordance with § 205.160-2.

(2) Compliance of the test vehicle with the applicable standard when tested in accordance with § 205.160-4.

(c)

(1) In lieu of testing vehicles of every configuration as described in paragraph (b) of this section, the manufacturer may elect to verify the configuration based on representative testing. The requirements of representative testing are:

(i) Grouping configurations into categories where each category is determined by a separate combination of at least the following parameters (a manufacturer may use more parameters):

(A) Engine type:

(*1*) Gasoline-two stroke;

(*2*) gasoline-four stroke;

(*3*) gasoline-rotary; and

(*4*) other.

(B) Engine displacement.

(C) Engine configuration:

(*1*) Number of cylinders; and

(*2*) cylinder arrangement (*i.e.*, in line, opposed, etc.)

(ii) Identifying the configuration within each category which emits the highest A-weighted sound level (in dB).

(iii) Testing in accordance with § 205.160-4 of a vehicle selected in accordance with § 205.160-2 which much be a vehicle of the configuration which is identified pursuant to paragraph (c)(1)(ii) of this section as having the highest sound pressure level (estimated or actual) within the category.

(iv) Demonstrating compliance of that vehicle with the applicable standard when tested in accordance with the test procedure specified in Appendix I.

(2) Where the requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within a category are considered represented by the tested vehicle.

(3) Where the manufacturer tests a vehicle configuration which has not been determined as having the highest sound pressure level of a category, but all other requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within that category which are determined to have sound pressure levels not greater than the tested vehicle are considered to be represented by the tested vehicle; however, a manufacturer must for purposes of Testing by the Administrator and Selective Enforcement Auditing verify according to the requirements of (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher sound pressure level than the vehicle configuration tested.

(d) A manufacturer may elect for purposes of Testing by the Administrator and Selective Enforcement Auditing to use representative testing pursuant to paragraph (c) of this section for all or part of his product line.

(e) The manufacturer has the following alternatives if any test vehicle is determined to not be in compliance with applicable standards:

(1) In the case of representative testing, a new test vehicle from another configuration must be selected according to the requirements of paragraph (c) of this section, in order to verify the configurations represented by the non-compliant vehicle.

(2) Modify the test vehicle and demonstrate by testing that it meets applicable standards. The manufacturer must modify all production vehicles of the same configuration in the same manner as the test vehicle before distribution into commerce.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57720, Dec. 28, 1982]

§ 205.157-3 Configuration identification.

(a) A separate vehicle configuration shall be determined by each combination of the following parameters:

(1) Exhaust system (engine):

(i) Mufflers;

(ii) expansion chambers;

(iii) spark arrestors; and

(iv) other exhaust system components.

(2) Air induction system (engine):

(i) Intake muffler;

(ii) intake ducting; and

(iii) air cleaner element.

(3) Vehicle drive train:

(i) Chain; and

(ii) shaft.

(4) Transmission gear ratio:

(i) Standard transmission; and

(ii) automatic transmission.

(5) Cooling system configuration:

(i) Natural air cooled;

(ii) liquid cooled; and

(iii) forced air cooled.

(6) Category parameters listed in § 205.157-2.

(b) [Reserved]

§ 205.158 Labeling requirements.

(a)

(1) The manufacturer of any vehicle subject to this subpart must, at the time of manufacture, affix a label, of the type specified in paragraphs (a)(2), (3), and (4) of this section, to all such vehicles to be distributed in commerce.

(2) The label must be plastic or metal and be welded, riveted, or otherwise permanently attached in a readily visible position.

(3) The label must be affixed by the vehicle manufacturer to the vehicle in such a manner that the label cannot be removed without destroying or defacing it, and must not be affixed to any piece of equipment that is easily detached from such vehicle.

(4) The label must be lettered in the English language in legible block letters and numerals, which must be of a color that contrasts with the background of the label.

(5) The label must contain the following information:

(i) The label heading: Motorcycle Noise Emission Control Information;

(ii) The statement:

> This _____ (model year) _____ (model specific code) motorcycle, _____ (serial number), meets EPA noise emission requirements of _____ (noise emission standard) dBA at _____ (closing rpm) rpm by the Federal test procedure. Modifications which cause this motorcycle to exceed Federal noise standards are prohibited by Federal law. See owner's manual.

(6) The model specific code is limited to ten spaces which includes three spaces for the manufacturer's abbreviation (see paragraph (a)(7) of this section), three spaces for the class identification, and four spaces for the advertised engine displacement respectively.

(7) All motorcycle manufacturers shall use the following abbreviations in their model specific code.

BMW	BMW
Bultaco	BUL
Can-Am Bombardier	CAB
Chaparral	CHA
Cheeta	CHE
Ducati	DUC
Fox	FOX
Harley Davidson	HAR
Heald	HEA
Hercules	HER
Hodaka	HOD
Honda	HON
Husqvarna	HUS
JAWA/CZ	JAW
Kawasaki	KAW
KTM	KTM

Laverda	LAV
Moto Benilli	BEN
Moto Guzzi	GUZ
Moto Morini	MOR
MV Agusta	MVA
Norton Triumph	TRI
Rokon	ROK
Suzuki	SUZ
Yamaha	YAM

(8) Moped manufacturers only shall use the following abbreviations in their model specific code.

AMF	AMF
Benelli	BEL
Califfo	CAL
Carabela	CAR
Cimatti	CIM
Columbia	COL
E-Z Rider	EZR
Flying Dutchman	FLY
Foxi	FOI
Gadabout	GAD
Garelli	GAR
Gitane	GIT
Honda	HON
Indian	IND
Intramotor	INT
Italvelo	ITA
Kreidler	KRE
Lazer	LAZ
Malagati	MAL
Morini	MOI
Motobecane/Solex	MBE
Moto Guzzi	GUZ
Negrini	NEG
Odyssey	ODY
Pacer	PAC
Pack-A-Way	PAK

Peugeot	PEU
Puch	PUC
Riviera	RIV
Sachs	SAC
Safari	SAF
Scorpion	SCO
Smily	SMI
Snark	SNA
Sori II	SON
Speed Bird	SPE
Sprinter	SPR
SuVega	SUV
Tomas	TOM
Vaespa	VES
Yankee Peddler	YAN

(9) If a new motorcycle manufacturer begins production of vehicles subject to this regulation, the Administrator will assign him a 3-letter manufacturer abbreviation as soon as reasonably practical after his existence is known to the Agency.

(b) Any vehicle manufactured in the United States solely for use outside the United States must be clearly labeled in accordance with the provisions of paragraphs (a) (2), (3), and (4) of this section with the statement; “For Export Only”.

(c) Any competition motorcycle as defined in § 205.151(a)(3), shall be labeled in accordance with the provisions of paragraphs (a)(1), (2), (3) and (4) of this section with the statement:

> This motorcycle is designed for closed course competition use only. It does not conform to U.S. EPA motorcycle noise standards.

(d) It will be permissible for manufacturers to meet the requirements of this section by consolidating these labeling requirements with other government labeling requirements in one or more labels, provided the provisions of paragraphs (a) (2), (3) and (4) of this section are met.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.159 Testing by the Administrator.

(a)

(1) In order for the Administrator to determine whether such vehicles or a manufacturer's test facility conform to applicable regulations, the Administrator may require that vehicles to be tested pursuant to the Act be submitted to him, at such place and time as he reasonably designates. He may designate the quantity of vehicles and the duration of time he reasonably requires for the purpose of conducting tests in accordance with test procedures described in appendix I. The manner in which

the Administrator conducts such tests, the EPA test facility, and the test procedures employed will be based upon good engineering practice and meet or exceed the requirements of appendix I of the regulations.

(2) If the Administrator specifies that he will conduct such testing at the manufacturer's facility, the manufacturer shall make available instrumentation and equipment of the type required for test operations by these regulations. The Administrator may conduct such tests with his own equipment, having specifications equal to or exceeding the performance specifications of the instrumentation and equipment required in these regulations.

(3) The manufacturer may observe tests conducted by the Administrator pursuant to this section on vehicles produced by the manufacturer and may copy the data accumulated from such tests. The manufacturer may inspect any of the vehicles before and after testing by the Administrator.

(b)

(1) If, based on tests conducted by the Administrator, or on other relevant information, the Administrator determines that the test facility does not meet the requirements of appendix I (or the requirements for an alternative test procedure approved under § 205.154), the Administrator will give notice to the manufacturer in writing of his determination and the reasons underlying it.

(2) The manufacturer may, at any time within 15 days after receipt of a notice issued under paragraph (b)(1) of this section, request a hearing conducted in accordance with 5 U.S.C. 554 on the issue of whether his test facility met the requirements as specified in appendix I (or the alternative procedure). Such notice will not take effect until 15 days after its receipt by the manufacturer or, if a hearing is requested under this paragraph, until adjudication by the Administrative law judge.

(3) After any notice issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from that test facility will be acceptable for purposes of this subpart.

(4) The manufacturer may request in writing that the Administrator reconsider his determination under paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and that those changes have resolved the reasons for disqualification.

(5) Within 10 working days after receipt of the manufacturer's request for reconsideration pursuant to paragraph (b)(4) of this section, the Administrator will notify the manufacturer of his determination and of the reasons underlyng it with regard to the requalification of the test facility.

(c) The Administrator will assume all reasonable costs associated with shipment of vehicles to the place designated pursuant to paragraph (a) of this section except with respect to:

(1) Any production verification testing performed at a place other than the manufacturer's facility as provided in § 205.157-2(a), or as a result of the manufacturer's not owning or having access to a test facility;

(2) Testing of a reasonable number of vehicles

(i) for purposes of selective enforcement auditing under § 205.160,

(ii) or if the manufacturer has failed to establish that there is a correlation between its test facility and the EPA test facility,

(iii) or the Administrator has reason to believe, and provides the manufacturer with a statement of such reason, that the vehicles to be tested would fail to meet the standard prescribed in this subpart if tested at the EPA test facility even though they would meet such standard if tested at the manufacturer's test facility;

(3) Any testing performed during a period when a notice issued pursuant to paragraph (b) of this section is in effect;

(4) Any testing performed at a place other than the manufacturer's facility as a result of the manufacturer's failure to permit the Administrator to conduct or monitor testing as required by this subpart; and

(5) Testing of up to 10 percent of the manufacturer's test vehicles for a model year if the Administrator determines testing these vehicles at the EPA test site is necessary to assure that a manufacturer has acted or is acting in compliance with the Act.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.160 Selective enforcement auditing (SEA) requirements.

§ 205.160-1 Test request.

(a) The Administrator will request all testing under § 205.160 by means of a test request addressed to the manufacturer.

(b) The test request will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered to the plant manager or other responsible official as designated by the manufacturer.

(c) The test request will specify the vehicle category, configuration or configuration subgroup selected for testing, the manufacturer's plant or storage facility from which the vehicles must be selected, and the time at which the vehicles must be selected. The test request will also provide for situations in which the selected category, configuration, or configuration subgroup is unavailable for testing. The test request may include an alternative category, configuration, or configuration subgroup designated for testing in the event that vehicles of the first specified category, configuration, or configuration subgroup are not available for testing because the vehicles are not being manufactured at the specified plant, are not being manufactured during the specified time, or are not being stored at the specified plant or storage facility.

(d)

(1) If the manufacturer projects a yearly production of fewer than 50 vehicles of the specified category, configuration or configuration subgroup to be tested, then within five (5) days of receipt of the request, the manufacturer must notify the Administrator of such low volume production. The Administrator will then provide a revised test request specifying a testing plan which imposes no greater risk of failure (5%) at the acceptable quality level (10%) than the plan in Appendix II. Upon receipt of the revised test request, the manufacturer must select and test a sample of vehicles from the category, configuration or configuration subgroup specified in the test request in accordance with this subpart and the conditions specified in the test request.

(2) If the manufacturer produces 50 or more vehicles of the specified category, configuration or configuration subgroup per year, then upon receipt of the test request, the manufacturer must select and test a sample of vehicles from the category, configuration or configuration subgroup specified in the test request in accordance with this subpart and the conditions specified in the test request.

(e)

(1) Any testing conducted by the manufacturer under a test request must be initiated within the time period specified in the test request; except that initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions, or other conditions beyond the control of the manufacturer, in that 24-hour period, do not permit testing. The manufacturer must record the conditions for this period.

(2) The manufacturer must complete noise emission testing on a minimum of ten vehicles per day unless otherwise provided by the Administrator or unless ambient test site conditions permit only the testing of a lesser number in which case the ambient test site weather conditions for that period must be recorded.

(3) The manufacturer is allowed 24 hours to ship vehicles from a sample from the assembly plant to the testing facility if the facility is not located at the plant or in close proximity to the plant. The Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) The Administrator may issue an order to the manufacturer to cease distribution in commerce of vehicles of a specified category, configuration, or configuration subgroup being manufactured at a particular facility, if:

(1) The manufacturer refuses to comply with the provisions of a test request issued by the Administrator under this section; or

(2) The manufacturer refuses to comply with any of the requirements of this section.

(g) A cease distribution order will not be issued under paragraph (f) of this section if the manufacturer's refusal is caused by conditions and circumstances outside his control which render compliance with the provisions of a test request or with any other requirements of this section impossible. Conditions and circumstances outside the control of the manufacturer include, but are not limited to, the temporary unavailability of equipment and personnel needed to conduct the required tests caused by uncontrollable factors, such as equipment breakdown or failure or illness of personnel. Failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests do not constitute uncontrollable factors. The manufacturer must bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(h) Any order to cease distribution will be issued only after a notice and opportunity for a hearing in accordance with 5 U.S.C. 554.

§ 205.160-2 Test sample selection and preparation.

(a) Vehicles comprising the sample which are required to be tested under a test request in accordance with this subpart must be selected consecutively as they are produced. Before the official test, the test vehicle must not be prepared, tested, modified, adjusted, or maintained in any manner unless such preparation, tests, modifications, adjustments or maintenance are part of the manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal vehicle assembly and inspection procedures, are required or permitted under this subpart, or are approved in

advance by the Administrator. For purposes of this section, prescribed manufacturing and inspection procedures include quality control testing and assembly procedures normally performed by the manufacturer on like products during early production if the resulting testing is not biased by this procedure. In the case of imported products, the manufacturer may perform adjustments, preparations, modification or tests normally performed at the port of entry by the manufacturer to prepare the vehicle for delivery to a dealer or customer.

(1) Equipment or fixtures necessary to conduct the test may be installed on the vehicle if such equipment or fixtures have no effect on the noise emissions of the vehicle, as determined by the measurement methodology.

(2) In the event of a vehicle malfunction (*i.e.*, failure to start, etc.) the manufacturer may perform the maintenance that is necessary to enable the vehicle to operate in a normal manner. This maintenance must be documented and reported in the SEA report.

(3) No quality control, quality assurance testing, assembly or selection procedures may be used on the test vehicle or any portion of the test vehicle including parts and subassemblies, unless such quality control, quality assurance testing, assembly or selection procedures are used normally during the production and assembly of all other vehicles of this configuration which will be distributed in commerce, are required or permitted under this subpart or are approved in advance by the Administrator.

(4) If a vehicle is unable to complete the noise tests, the manufacturer may replace the vehicle. Any replacement vehicle must be a production vehicle of the same configuration as the replaced vehicle or a noisier configuration and will be subject to all the provisions of these regulations. Any replacement must be reported in the SEA report.

(b) The Acceptable Quality Level (AQL) is 10 percent. The appropriate sampling plans associated with the designated AQL are contained in Appendix II or the test request.

(c) The vehicles of the category, configuration or configuration subgroup selected for testing must be assembled by the manufacturer for distribution in commerce using the manufacturer's normal production process.

(d) Unless otherwise indicated in the test request, the manufacturer must initiate testing with the vehicles of the category, configuration or configuration subgroup specified in the test request which are next scheduled for production after receipt of the test request.

(e) The manufacturer must keep on hand all products in the test sample until the sample is accepted or rejected in accordance with § 205.160-6; except that vehicles actually tested and found to be in conformance with this regulation need not be kept.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.160-3 [Reserved]

§ 205.160-4 Testing procedures.

(a) The manufacturer must conduct one valid test in accordance with the appropriate test procedures specified in Appendix I, on each vehicle selected for testing under this subpart.

(b) In the event a vehicle is unable to complete the noise emission test, the manufacturer may replace the vehicle. Any replacement vehicle must be a production vehicle of the same category, configuration or subgroup as the vehicle which it replaced, and it is subject to all the provisions of this subpart.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.160-5 Reporting of the test results.

(a)

(1) The manufacturer must submit a copy of the test report for all testing conducted pursuant to § 205.160 at the conclusion of each 24-hour period during which testing is done.

(2) For each test conducted the manufacturer must provide the following information:

(i) Category, configuration or configuration subgroup identification where applicable;

(ii) Year, make, assembly date, and model of vehicle;

(iii) Vehicle serial number; and

(iv) Test results by serial numbers.

(b) In the case where an EPA Enforcement Officer is present during testing required by this subpart, the written reports requested in paragraph (a) of this section may be given directly to the Enforcement Officer.

(c) Within 5 days after completion of testing of an SEA, the manufacturer must submit to the Administrator a final report which will include the following:

(1) The name, location, and description of the manufacturer's noise emission test facilities which meet the specifications of Appendix I, and were utilized to conduct testing reported under this section, except, that a test facility that has been described in a previous submission under this subpart need not again be described, but must be identified as that facility.

(2) The following information for each noise emission test conducted:

(i) The individual records for the test vehicles required by § 205.161(a)(2) for all noise emission tests including for each invalid test, the reason for invalidation.

(ii) A complete description of any modification, repair, preparation, maintenance, or testing which could affect the noise emissions of the product and which was performed on the test vehicle but not performed on all other production vehicles; and,

(iii) The test results for any replaced vehicle and the reason for its replacement.

(3) A complete description of the sound data acquisition system if other than those specified in Appendix I.

(4) The following statement and endorsement:

> This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. To the best of _____ (company name) knowledge, all testing for which data are reported here was conducted in strict conformance with applicable regulations under 40 CFR part 205 *et seq.,* all the data reported here are a true and accurate representation of such testing, and all other information reported here is true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder. _____ (authorized representative).

(5) Additional information required by the test request.

(d) Information required to be submitted to the Administrator under this section must be sent to the following address: Director, Noise and Radiation Enforcement Division, (EN-387), U.S. Environmental Protection Agency, Washington, DC 20460.

§ 205.160-6 Passing or failing under SEA.

(a) A failing vehicle is one whose measured noise level is in excess of the applicable noise emission standard in § 205.152.

(b) The number of failing vehicles in a sample determines whether the sample passes or fails (See applicable tables in Appendix II). If the number of failing vehicles is greater than or equal to the number of Column B, the sample fails. If the number of failing vehicles is less than or equal to the number in Column A, the sample passes.

(c) Pass or failure of an SEA takes place when a decision that a vehicle is a passing or failing unit is made on the last vehicle required to make a decision under paragraph (b) of this section.

(d) If the manufacturer passes the SEA, he will not be required to perform any additional testing on subsequent vehicles to satisfy the test request.

(e) The Administrator may terminate testing earlier than required in paragraph (b) of this section, based on a request by the manufacturer, accompanied by voluntarily ceasing distribution in commerce of vehicles from the category, configuration or configuration subgroup in question, manufactured at the plant which produced the products being tested. Before reinitiating distribution in commerce of that vehicle category, configuration or configuration subgroup from that plant, the manufacturer must take the action described in § 205.160-8(a)(1) and (2).

§ 205.160-7 Continued testing.

(a) If an SEA failure occurs according to paragraph (b) of § 205.160-6, the Administrator may require that any or all vehicles of that category, configuration or configuration subgroup produced at that plant be tested before distribution in commerce.

(b) The Administrator will notify the manufacturer in writing of his intent to require continued testing of vehicles under paragraph (a) of this section.

(c) The manufacturer may request a hearing on the issues of whether the SEA was conducted properly; whether the criteria for SEA failure have been met; and the appropriateness or scope of a continued testing order. If a hearing is requested, the hearing will begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress will affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

(d) Any tested vehicle which demonstrates conformance with the applicable standard may be distributed into commerce.

(e) Any distribution into commerce of a vehicle which does not comply with the applicable standard is a prohibited act.

§ 205.160-8 Prohibition of distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the manufacturer to cease testing under § 205.160-7 after the manufacturer has taken the following actions:

(1) Submission of a written report to the Administrator which identifies the reason for the noncompliance of the vehicles, describes the problem and/or quality control or quality assurance remedies to be taken by the manufacturer to correct the problem.

(2) Demonstration that the specified vehicle category, configuration or configuration subgroup has passed a retest conducted in accordance with § 205.160, and the conditions specified in the test request.

(b) The manufacturer may begin testing under paragraph (a)(2) of this section upon submitting the report required by paragraph (a)(1) of this section, and may cease continued testing upon making the demonstration required by paragraph (a)(2) of this section. The Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of paragraphs (a)(1) and (2) of this section.

(c) Any vehicle failing the prescribed noise emission tests conducted pursuant to appendix I may not be distributed in commerce until necessary adjustments or repairs have been made and the vehicle passes a retest.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.162 In-use requirements.

§ 205.162-1 Warranty.

(a) The vehicle manufacturer who is required to production verify under this subpart must include in the owner's manual or in other information supplied to the ultimate purchaser the following statement:

> NOISE EMISSIONS WARRANTY [RESERVED]

(b) [Reserved]

[45 FR 86708, Dec. 31, 1980, as amended at 48 FR 27040, June 13, 1983]

§ 205.162-2 Tampering.

(a) For each configuration of vehicles covered by this part, the manufacturer shall develop a list of acts which, in his judgment, constitute the removal or rendering totally or partially inoperative, other than for purposes of maintenance, repair, or replacement of noise control devices or elements of design of the vehicle.

(b) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

> Tampering With Noise Control System Prohibited
>
> Federal law prohibits the following acts or causing thereof:

(1) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new vehicle for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use, or (2) the use of the vehicle after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

Among those acts presumed to constitute tampering are the acts listed below.

Immediately following this statement, the manufacturer must include the list developed under paragraph (a) of this section.

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a presumed act of tampering has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle or that the vehicle still meets the noise emission standard of § 205.152, the act will not constitute tampering.

(d) The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing its own prohibitions against the removal or rendering inoperative of noise control systems on vehicles subject to this part.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.162-3 Instructions for maintenance, use, and repair.

(a)

(1) The manufacturer must provide to the purchaser of each vehicle covered by this subpart written instructions for the proper maintenance, use, and repair of the vehicle in order to provide reasonable assurance of the elimination or minimization of noise emission degradation throughout the life of the vehicle.

(2) The purpose of the instructions is to inform purchasers and mechanics of the acts necessary to reasonably assure that degradation of noise emission level is eliminated or minimized during the life of the vehicle. Manufacturers shall prepare the instructions with this purpose in mind. The instructions shall be clear and, to the extent practicable, written in non-technical language.

(3) The instructions must not be used to secure an unfair competitive advantage. They shall not restrict replacement equipment to original equipment or restrict service to dealer service unless such manufacturer makes public the performance specifications on such equipment.

(b) For the purpose of encouraging proper maintenance, the manufacturer must provide a record or log book which shall contain a schedule for the performance of all required noise emission control maintenance. Space must be provided in this record book so that the purchaser can note what maintenance was done, by whom, where, and when.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57722, Dec. 28, 1982]

§ 205.163 Recall of noncomplying motorcycles; relabeling of mislabeled motorcycles.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall, repair, modify, or relabel any vehicles distributed in commerce which are not in compliance with this subpart.

(b) A recall order issued under this section shall be based upon a determination by the Administrator that vehicles of a specified category, configuration, or class which do not conform to the regulations or are improperly labeled have been distributed in commerce. This determination may be based on:

(1) A technical analysis of the noise emission characteristics of the category, configuration, or class in question; or

(2) any other relevant information, including test data.

(c) For the purpose of this section, noise emissions are to be measured by the appropriate test procedure prescribed in appendix I prior to sale or any other test which has been demonstrated to correlate with the prescribed test procedure in accordance with § 205.154.

(d) Any order to recall shall be issued only after notice and an opportunity for a hearing.

(e) All cost, including labor and parts, associated with the recall and repair or modification of noncomplying vehicles and relabeling of mislabeled vehicles under this section shall be borne by the manufacturer.

(f) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

Appendix I to Subparts D-E of Part 205—Motorcycle Noise Emission Test Procedures [Note]

Editorial Note: The text of appendix I follows subpart E.

Subpart E—Motorcycle Exhaust Systems

Authority: Sec. 6 of the Noise Control Act (42 U.S.C. 4905).

Source: 45 FR 86718, Dec. 31, 1980, unless otherwise noted.

§ 205.164 Applicability.

(a) Except as otherwise provided in these regulations, the provisions of this subpart apply to any motorcycle replacement exhaust system or motorcycle replacement exhaust system component which:

(1) Meets the definition of the term “new product” in the Act; and

(2) Is designed and marketed for use on any motorcycle subject to the provisions of subpart D of this part.

(b) The provisions of § 205.169 additionally apply to the motorcycle exhaust systems originally installed on vehicles subject to the requirements of subpart D of this part.

(c) The provisions of § 205.169(d)(3) additionally apply to motorcycle replacement exhaust systems manufactured after January 1, 1983 that are designed and marketed for use on motorcycles manufactured before January 1, 1983.

(d) Except as provided for in § 205.169, the provisions of this subpart do not apply to exhaust systems which are designed and marketed solely for use on competition motorcycles as defined in § 205.151(a)(3).

(e) The provisions of the subpart do not apply to exhaust header pipes sold as separate products.

§ 205.165 Definitions.

(a) As used in this subpart, all terms not defined herein have the meaning given them in subpart D of this part or in the Act.

(1) ***Category*** means a group of exhaust systems which are identical in all material aspects with respect to the parameters listed in § 205.168 of this subpart.

(2) ***Exhaust header pipe*** means any tube of constant diameter which conducts exhaust gas from an engine exhaust port to other exhaust system components which provide noise attenuation. Tubes with cross connections or internal baffling are not considered to be “exhaust header pipes.”

(3) ***Failing exhaust system*** means that, when installed on any Federally regulated motorcycle for which it is designed and marketed, that motorcycle and exhaust system exceed the applicable standards.

(4) ***Federally regulated motorcycle*** means, for the purpose of this subpart, any motorcyle subject to the noise standards of subpart D of this part.

(5) ***Federal standards*** means, for the purpose of this subpart, the standards specified in § 205.152(a)(1), (2) and (3).

(6) [Reserved]

(7) ***Stock configuration*** means that no modifications have been made to the orginal equipment motorcycle that would affect the noise emissions of the vehicle when measured according to the acceleration test procedure.

(8) ***Test exhaust system*** means an exhaust system in Selective Enforcement Audit test sample.

(b) [Reserved]

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57722, Dec. 28, 1982]

§ 205.166 Noise emission standards.

(a) ***Noise emission standards.***

(1) Exhaust systems and exhaust system components that are designed and marketed for use on any Federally regulated street motorcycle of the following and subsequent model years must be designed and built so that when installed on any such motorcycle which is in compliance with the requirements of subpart D of this part, they will not cause that motorcycle to produce noise emissions in excess of the levels indicated:

(i) Systems designed and marketed for use on street motorcycles other than those that meet the definition of § 205.151(a)(2)(ii):

Motorcycle model year	A-weighted noise level (dB)
(A) 1983	83
(B) 1986	80

(ii) Systems designed and marketed for street motorcycles that meet the definition of § 205.151(a)(2)(ii) (moped-type street motorcycles):

Motorcycle model year	A-weighted noise level (dB)
(A) 1983	70

(2) Exhaust systems and exhaust system components that are designed and marketed for use on any Federally regulated off-road motorcycle of the following and subsequent model years must be designed and built so that, at the time of sale, when installed on any such motorcycle which is in compliance with the requirements of subpart D of this part, they will not cause that motorcycle to produce noise emissions in excess of the levels indicated:

(i) Systems designed and marketed for use on off-road motorcycles with engine displacements of 170 cc and lower:

Motorcycle model year	A-weighted noise level (dB)
(A) 1983	83
(B) 1986	80

(ii) Systems designed and marketed for use on off-road motorcycles with engine displacements greater than 170 cc:

Motorcycle model year	A-weighted noise level (dB)
(A) 1983	86

Motorcycle model year	A-weighted noise level (dB)
(B) 1986	82

(3) Exhaust systems and exhaust system components that are designed and marketed for use on any Federally regulated street motorcycle shall be designed and built so that, when installed on any such motorcycle which is in compliance with the requirements of subpart D of this part, and when both the motorcycle and the exhaust system are properly maintained and used, they will not cause that motorcycle to produce noise emissions in excess of the levels specified in paragraph (a)(1) of this section, for an Acoustical Assurance Period of one year or a distance of 6000 km (3729 mi) after the time of sale to the ultimate purchaser, whichever occurs first.

(4) Exhaust systems and exhaust system components that are designed and marketed for use on any Federally regulated off-road motorcycle must be designed and built so that, when installed on any such motorcycle which is in compliance with the requirements of subpart D of this part, and when both the motorcycle and the exhaust system are properly maintained and used, they will not cause that motorcycle to produce noise emissions in excess of the levels specified in paragraph (a)(2) of this section, for an Acoustical Assurance Period of one year or a distance of 3000 km (1865 mi) after the time of sale to the ultimate purchaser, whichever occurs first.

(5) At the time of sale to the ultimate purchaser all products must comply with the standards set forth in paragraphs (a) (1) and (2) of this section.

(b) ***Measurement procedure.***

(1)

(i) The standards set forth in paragraph (a) of this section refer to the noise emissions as measured in accordance with the measurement methodology specified in appendix I-1 for all motorcycles except those street motorcycles meeting the definition of § 205.151(a)(2)(ii). Exhaust systems which alter a motorcycle's maximum rated RPM shall be tested using the unmodified motorcycle's maximum rated RPM to determine closing RPM or test RPM.

(ii) The standards set forth in paragraph (a) of this section for street motorcycles meeting the definition of § 205.151(a)(2)(ii) (moped-type street motorcycles) refer to noise emissions measured in accordance with the measurement methodology specified in appendix I-2.

(2) Exhaust system components sold as separate products shall be tested as part of a system made up of that part and original equipment components to complete the system.

(3) Exhaust system components sold as separate products which are incompatible with original equipment components necessary to make a complete exhaust system, or which would not meet standards as prescribed in this subpart in such configuration, may be tested with non-original equipment components provided that the provisions of § 205.169(e)(1)(ii)(B) are carried out.

§ 205.167 Consideration of alternative test procedures.

The Administrator may approve applications from manufacturers of original equipment and replacement exhaust systems for the approval of test procedures which differ from those contained in this subpart so long as the alternative procedures have been demonstrated to correlate with the prescribed procedure. To be acceptable,

alternative test procedures must be such that the test results obtained will identify all those test exhaust systems which would not comply with the noise emission standards prescribed in § 205.166 when tested in accordance with the measurement methodology specified in appendix I. After approval by the Administrator, testing conducted by manufacturers using alternative test procedures may be accepted by the Administrator for all purposes including, but not limited to, production verification testing and selective enforcement audit testing.

§ 205.168 Requirements.

§ 205.168-1 General requirements.

(a) Each manufacturer of motorcycle exhaust systems manufactured for Federally regulated motorcycles and distributed in commerce in the United States which are subject to the noise emission standards prescribed in this subpart and not exempted in accordance with subpart A, § 205.5:

(1) Must label each exhaust system in accordance with the requirements of § 205.169 of this subpart; and

(2) Must only manufacture exhaust systems which conform to the applicable noise emission standard established in § 205.166 of this regulation when installed on any Federally regulated motorcycle for which it has been designed and marketed.

(b) The manufacturer who is required to conduct testing to demonstrate compliance with a particular standard must satisfy all other provisions of this subpart applicable to that standard.

(c) Prior to distribution into commerce of exhaust systems of a specific category, the manufacturer of the exhaust system shall verify the category in accordance with this subpart.

(1) Not withstanding paragraph (a)(1) of this section, the manufacturer may distribute in commerce exhaust systems of that category for up to 90 days if weather or other conditions beyond the control of the manufacturer make testing of a category impossible and if the following conditions are met:

(i) The manufacturer performs the tests required under paragraph (d) or (e) of this section on such category as soon as conditions permit;

(ii) [Reserved]

(d) The requirements for each exhaust system category consist of:

(1) Testing in accordance with § 205.171-1 of an exhaust system selected in accordance with § 205.171-2.

(2) Compliance of the test exhaust system on a motorcycle for which it is marketed with the applicable standard when tested in accordance with appendix I; and

(e) A manufacturer is required to verify all categories of exhaust systems within his product line for each class of Federally regulated motorcycle for which it is designed and marketed. A category of a replacement exhaust system is defined by a separate combination of at least the following parameters:

(1) ***Muffler/Silencer:***

(i) Volume;

(ii) type of absorption material;

(iii) amount of absorption material;

(iv) length;

(v) diameter;

(vi) directional flow of exhaust gas;

(vii) interior construction;

(viii) shell and inner construction material;

(ix) number of header pipes entering muffler; and

(x) specific motorcycle application.

(2) ***Expansion Chamber:***

(i) Volume;

(ii) diameter;

(iii) construction material;

(iv) directional flow of exhaust gas;

(v) length; and

(vi) specific motorcycle application.

(3) ***Spark Arrestors:***

(i) Volume;

(ii) construction material;

(iii) directional flow of exhaust gas;

(iv) length;

(v) diameter, and

(vi) specific motorcycle application.

(4) ***Other Exhaust System Components:***

(i) Volume;

(ii) shape;

(iii) length;

(iv) diameter;

(v) material;

(vi) directional flow of exhaust gas; and

(vii) specific motorcycle application.

(f) Exhaust system components sold as separate products shall be tested pursuant to § 205.166(b).

(g) Original equipment exhaust systems that are also sold as replacement systems for the same motorcycle configuration need not be tested under this subpart if they have been tested or represented in a test report under subpart D of this part.

(h) A manufacturer has the following alternatives if any test exhaust system is determined not to be in compliance with applicable standards:

(i) Modify the test exhaust system and demonstrate by testing that it meets applicable standards. The manufacturer must modify all production exhaust systems of the same category in the same manner as the test exhaust system before distribution in commerce.

[47 FR 57722, Dec. 28, 1982; 48 FR 27040, June 13, 1983]

§ 205.168-11 Order to cease distribution.

(a) If a category of exhaust systems is found not to comply with this subpart because it has not been verified or labeled as required by § 205.169, the Administrator may issue an order to the manufacturer to cease distribution in commerce exhaust systems of that category. This order will not be issued if the manufacturer has made a good faith attempt to properly production verify the category and can establish such good faith.

(b) Any such order shall be issued after notice and opportunity for a hearing which will be held in accordance with title 5 U.S.C. 554.

[45 FR 86718, Dec. 31, 1980, as amended at 48 FR 27040, June 13, 1983]

§ 205.169 Labeling requirements.

(a) The manufacturer of any product (including the manufacturer of newly produced motorcycles) subject to this subpart must, at the time of manufacture, affix a permanent, legible label, or mark of the type and in the manner described below, containing the information provided below, to all such exhaust systems or exhaust system components to be distributed in commerce.

(b) The labels or marks shall be affixed in such a manner that they cannot be removed without destroying or defacing them, and must not be applied to any part which is easily detached from such product.

(c) The label or mark shall be in a readily visible position when the exhaust system or exhaust system component is installed on all motorcycles for which it is designed and marketed.

(d) All required language shall be lettered in the English language in block letters and numerals in a color that contrasts with its background.

(e) The label or mark must contain the following information:

(1) For exhaust systems subject to the noise emission standards of § 205.166:

(i) The label heading: Motorcycle Exhaust System Noise Emission Control Information;

(ii)

(A) For original equipment and replacement exhaust system, the following statement:

> This (manufacturer's name) exhaust system (serial number) meets EPA noise emission requirements of (noise emission standard) dBA for the following motorcycles: (list of model specific codes). Installation of this exhaust system on motorcycle models not specified may violate Federal law.

(B) For exhaust system components designed and marketed for motorcycles, and tested in accordance with § 205.168 as a constituent of a complete exhaust system comprising non-original equipment components (other than itself), as provided for in § 205.166(b)(3), the following statement:

> This (manufacturer's name) (type of component) (serial number), when installed with a legal (type of component), meets EPA noise emission requirements of (noise emission standard) dBA for the following motorcycles: (list of model specific codes). Installation of this exhaust system components on motorcycle models not specified may violate Federal law.

(iii) The model specific code must be the same as used by the motorcycle manufacturer and described in § 205.158(a)(6).

(2) For exhaust systems designed solely for use on competition motorcycles (as defined by § 205.151(a)(3) and so designated and labeled by the manufacturer), the statement:

> This product is designed for use on closed course competition motorcycles only and does not conform to U.S. EPA noise emission standards. Used on motorcycles subject to EPA noise regulations constitutes tampering and is a violation of Federal law unless it can be shown that such use does not cause the motorcycle to exceed applicable Federal standards.

(3) For exhaust systems designed solely for use on motorcyles manufactured before January 1, 1982, the statement:

> This product is designed for use on pre-1982 model year motorcycles only and does not conform to U.S. EPA noise emission standards. Use on motorcycles subject to EPA noise regulations constitutes tampering and is a violation of Federal law unless it can be shown that such use does not cause the motorcycle to exceed applicable Federal standards.

(4) For replacement exhaust systems manufactured in the United States solely for use outside the U.S. and not conforming to the noise emissions standards of this regulation, the statement: “For Export Only.”

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57722, Dec. 28, 1982]

§ 205.170 Testing by the Administrator.

(a)

(1) In order for the Administrator to determine whether such exhaust systems or a manufacturer's test facility conform to applicable regulations, the Administrator may require that exhaust systems to be tested pursuant to the Act be submitted to him, at such place and time as he reasonably designates. He may designate the quantity of exhaust systems and the duration of time he reasonably requires for the purpose of conducting tests in accordance with test procedures described in appendix I. The

manner in which the Administrator conducts such tests, the EPA test facility, and the test procedures employed will be based upon good engineering practice and meet or exceed the requirements of appendix I.

(2) If the Administrator specifies that he will conduct such testing at the manufacturer's facility, the manufacturer shall make available instrumentation and equipment of the type required for test operators by these regulations. The Administrator may conduct such tests with his own equipment, having specifications equal to or exceeding the performance specifications of the instrumentation and equipment required in these regulations.

(3) The manufacturer may observe tests conducted by the Administrator pursuant to this section on exhaust systems produced by the manufacturer and may copy the data accumulated from such tests. The manufacturer may inspect any of the exhaust systems before and after testing by the Administrator.

(b)

(1) If, based on tests conducted by the Administrator or on other relevant information, the Administrator determines that the test facility does not meet the requirements of appendix I or the requirements for an alternative test procedure approved under § 205.154, the Administrator will give notice to the manufacturer in writing of his determination and the reasons underlying it.

(2) The manufacturer may, at any time within 15 days after receipt of a notice issued under paragraph (b)(1) of this section, request a hearing conducted in accordance with 5 U.S.C. 554 on the issue of whether his test facility met the requirements. Such notice will not take effect until 15 days after its receipt by the manufacturer, or, if a hearing is requested under this paragraph, until adjudication by the administrative law judge.

(3) After any notice issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from that test facility will be acceptable for purposes of this subpart.

(4) The manufacturer may request in writing that the Administrator reconsider his determination under paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and that such changes have resolved the reasons for disqualification.

(5) Within 10 working days after receipt of the manufacturer's request for reconsideration pursuant to paragraph (b)(4) of this section, the Administrator will notify the manufacturer of his determination and the reasons underlying it with regard to the requalification of the test facility.

(c) The Administrator will assume all reasonable costs associated with shipment of exhaust systems to the place designated pursuant to paragraph (a) of this section except with respect to:

(1) [Reserved]

(2) Testing of a reasonable number of exhaust systems

(i) for purposes of selective enforcement auditing under § 205.171, or

(ii) if the manufacturer has failed to establish that there is a correlation between its test facility and the EPA test facility, or

(iii) the Administrator has reason to believe, and provides the manufacturer with a statement of such reason, that the exhaust systems to be tested would fail to meet the standard prescribed in this subpart if tested at the EPA test facility, even though they would meet such standard if tested at the manufacturer's test facility;

(3) Any testing performed during a period when a notice of non- conformance of the manufacturer's test facility issued pursuant to paragraph (b) of this section is in effect;

(4) Any testing performed at a place other than the manufacturer's facility as a result of the manufacturer's failure to permit the Administrator to conduct or monitor testing as required by this subpart; and

(5) In addition to any exhaust systems included in paragraphs (c) (2), (3), or (4) of this section, testing of up to 10 percent of the manufacturer's exhaust systems for a model year if the Administrator determines testing these exhaust systems at the EPA test site is necessary to assure that a manufacturer has acted or is acting in compliance with the Act.

(Secs. 11 and 13 of the Noise Control Act (42 U.S.C. 4910, 4912); 42 U.S.C. 4905; 86 Stat. 1237 and secs. 6, 10, 11, 13, Pub. L. 92-574, 86 Stat. 1234 (42 U.S.C. 4905, 4909, 4910, 4912))

[45 FR 86718, Dec. 31, 1980; 46 FR 4918, Jan. 19, 1981, as amended at 47 FR 57722, Dec. 28, 1982; 49 FR 26738, June 29, 1984]

§ 205.171 Selective enforcement auditing (SEA) requirements.

§ 205.171-1 Test request.

(a) The Administrator will request all testing under § 205.171 by means of a test request addressed to the manufacturer.

(b) The test request will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered to the plant manager or other responsible official as designated by the manufacturer.

(c) The test request will specify the exhaust system category, model and model year of motorcycle selected for testing, the manufacturer's plant or storage facility from which the exhaust systems must be selected, the method of selection and the time at which the exhaust systems must be selected. The test request will also provide for situations in which the selected exhaust system is unavailable for testing. The test request may include an alternative exhaust system category designated for testing in the event that exhaust systems of the first specified category are not available for testing because the exhaust systems are not being manufactured at the specified plant or are not being manufactured during the specified time or are not being stored at the specified plant or storage facility.

(d)

(1) If the manufacturer projects a yearly production of fewer than 50 exhaust systems of the specified category to be tested, then, within five (5) days of receipt of the request, the manufacturer must notify the Administrator of such low volume production. The Administrator will then provide a revised test request specifying a testing plan which imposes no greater risk of failure (5%) at the acceptable quality level (10%) than the plan in appendix II. Upon receipt of the revised test request, the manufacturer must select and test a sample of exhaust systems from the category specified in the test request in accordance with this subpart and the conditions specified in the test request.

(2) If the manufacturer produces 50 or more of the specified category, then, upon receipt of the test request, the manufacturer must select and test a sample of exhaust systems for the category specified in the test request in accordance with this subpart and the conditions specified in the test request.

(e)

(1) Any testing conducted by the manufacturer under a test request must be initiated within the time period specified in the test request; except that initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions, or other conditions beyond the control of the manufacturer, in that 24-hour period do not permit testing. The manufacturer must record the conditions for this period.

(2) The manufacturer must complete noise emission testing on a minimum of ten exhaust systems per day unless otherwise provided by the Administrator or unless ambient test site conditions permit only the testing of a lesser number, in which event the ambient test site weather conditions for that period must be recorded.

(3) The manufacturer is allowed 24 hours to ship exhaust systems from a sample from the assembly plant to the testing facility if the facility is not located at the plant or in close proximity to the plant. The Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) The Administrator may issue an order to the manufacturer to cease distribution in commerce of exhaust systems of a specified category being manufactured at a particular facility if:

(1) The manufacturer refuses to comply with the provisions of a test request issued by the Administrator under this section; or

(2) The manufacturer refuses to comply with any of the requirements of this section.

(g) A cease distribution order will not be issued under paragraph (f) of this section if the manufacturer's refusal is caused by conditions and circumstances outside his control which render compliance with the provisions of a test request or with any other requirements of this section impossible. Conditions and circumstances outside the control of the manufacturer include, but are not limited to, the temporary unavailability of equipment and personnel needed to conduct the required tests, caused by uncontrollable factors such as equipment breakdown or failure or illness of personnel. Failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests does not constitute uncontrollable factors. The manufacturer must bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(h) Any order to cease distribution will be issued only after notice and opportunity for a hearing in accordance with 5 U.S.C. 554.

§ 205.171-2 Test exhaust system sample selection and preparation.

(a)

(1) Exhaust systems comprising the sample which are required to be tested under a test request in accordance with this subpart must be selected consecutively as they are produced.

(2) Test motorcycles and test exhaust systems to be used for testing of exhaust systems must be of the subject class which has been assembled using the manufacturer's normal production processes, in stock configuration including exhaust system, as sold or offered for sale in commerce.

(3) Before the official test, the test motorcycle and test exhaust system must not be prepared, tested, modified, adjusted, or maintained in any manner unless such preparation, tests, modifications, adjustments or maintenance are part of the original equipment manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal motorcycle assembly and inspection procedures, or are required or permitted under this subpart, or are approved in advance by the Administrator.

(4) Equipment or fixtures necessary to conduct the test may be installed on the motorcycle, if such equipment or fixtures shall have no effect on the noise emissions of the motorcycle as determined by the measurement methodology.

(5) In the event of a motorcycle malfunction (*i.e.*, failure to start, etc.) maintenance that is necessary may be performed to enable the vehicle to operate in a normal manner. This maintenance must be documented and reported in the final report prepared and submitted in accordance with this subpart.

(6) No quality control, quality assurance testing, assembly or selection procedures may be used on the test vehicle or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other motorcycles of that class which will be distributed in commerce, unless such procedures are required or permitted under this subpart or are approved in advance by the Administrator.

(b) The Acceptable Quality Level (AQL) is 10 percent. The appropriate sampling plans associated with the designated AQL are contained in appendix II or the test request.

(c) The exhaust systems of the category selected for testing must be assembled by the manufacturer for distribution in commerce using the manufacturer's normal production process.

(d) Unless otherwise indicated in the test request, the manufacturer must initiate testing with the exhaust systems of the category specified in the test request which are next scheduled for production after receipt of the test request.

(e) The manufacturer must keep on hand all products in the test sample until the sample is accepted or rejected in accordance with § 205.171-8; except that exhaust systems actually tested and found to be in conformance with this regulation need not be kept.

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57723, Dec. 28, 1982]

§ 205.171-3 Test motorcycle sample selection.

A test motorcycle to be used for selective enforcement audit testing of exhaust systems must be a motorcycle of the subject class which has been assembled using the manufacturer's normal production process, in stock configuration including exhaust system, and sold or offered for sale in commerce.

§ 205.171-6 Testing procedures.

(a) The manufacturer of the exhaust system must conduct one valid test in accordance with the appropriate test procedure specified in appendix I for each exhaust system selected for testing under this subpart.

(b) No maintenance may be performed on the test exhaust system except as provided by § 205.171-2. In the event an exhaust system is unable to complete the noise emission test, the manufacturer may replace the exhaust system. Any replacement exhaust system must be a production exhaust system of the same category as the exhaust system which it replaced, and it is subject to all the provisions of this subpart.

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57723, Dec. 28, 1982]

§ 205.171-7 Reporting of the test results.

(a)

(1) The manufacturer must submit a copy of the test report for all testing conducted pursuant to § 205.171 at the conclusion of each 24-hour period during which testing is done.

(2) For each test conducted, the manufacturer must provide the following information:

(i) Category identification where applicable;

(ii) Year, manufacturing date, serial number and model of exhaust system;

(iii) Year, make serial number, and model of test motorcycle; and

(iv) Test results by serial numbers.

(b) In the case where an EPA Enforcement Officer is present during testing required by this subpart, the written reports requested in paragraph (a) of this section may be given directly to the Enforcement Officer.

(c) Within 5 days after completion of an SEA, the manufacturer must submit to the Administrator a final report which will include the following:

(1) The name, location, and description of the manufacturer's noise emission test facilities which meet the specifications of appendix I and where utilized to conduct testing reported under this section, except, that a test facility that has been described in a previous submission under this subpart need not again be described, but must be identified as that facility.

(2) The following information for each noise emission test conducted:

(i) The individual records required by § 205.172 (a)(2) for all noise emission tests including for each invalid test, the reason for invalidation;

(ii) A complete description of any modification, repair, preparation, maintenance, or testing, which could affect the noise emissions of the product and which was performed on the test exhaust system but not performed on all other production exhaust systems;

(iii) The test results for any replacement exhaust system and the reason for its replacement.

(3) A complete description of the sound data acquisition system if other than that specified in appendix I.

(4) The following statement and endorsement:

> This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. To the best of (company name) knowledge, all testing for which data is reported here was conducted in strict conformance with applicable regulations under 40 CFR Part 205 *et seq.,* all the data reported here are a

> true and accurate representation of such testing, and all other information reported here is true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder. (authorized representative).

(5) Additional information required by the test request.

(d) Information required to be submitted to the Administrator under this section must be sent to the following address: Director, Noise and Radiation Enforcement Division, (EN-387), U.S. Environmental Protection Agency, Washington, DC 20460.

§ 205.171-8 Passing or failing under SEA.

(a) A failing exhaust system is one which, when installed on any motorcycle which is in compliance with the requirements of subpart D and for which it is designed and marketed, together with such motorcycle produces a measured noise level in excess of the applicable noise emission standard in § 205.166.

(b) The number of failing vehicles in a sample determines whether the sample passes or fails (See applicable tables in appendix II). If the number of failing vehicles is greater than or equal to the number in Column B, the sample fails. If the number of failing vehicles is less than or equal to the number in Column A, the sample passes.

(c) Pass or failure of a SEA takes place when a decision that an exhaust system is a passing or failing unit is made on the last exhaust system required to make a decision under paragraph (b) of this section.

(d) If the manufacturer passes the SEA, he will not be required to perform any additional testing on subsequent exhaust systems to satisfy the test request.

(e) The Administrator may terminate testing earlier than required in paragraph (b) of this section, based on a request by the manufacturer, accompanied by voluntarily ceasing distribution in commerce of exhaust systems from the category in question, manufactured at the plant which produced the exhaust systems being tested. Before reinitiating distribution in commerce of that exhaust system category from that plant, the manufacturer must take the action described in § 205.171-10(a)(1) and (2).

§ 205.171-9 Continued testing.

(a) If an SEA failure occurs according to paragraph (b) of § 205.171-8, the Administrator may require that any or all exhaust systems of that category produced at that plant be tested before distribution in commerce.

(b) The Administrator will notify the manufacturer in writing of his intent to require continued testing of exhaust systems under paragraph (a) of this section.

(c) The manufacturer may request a hearing on the issues of whether the SEA was conducted properly; whether the criteria for SEA failure have been met; and the appropriateness or scope of a continued testing order. If a hearing is requested, the hearing will begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress will affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

(d) Any tested exhaust system which demonstrates conformance with the applicable standard may be distributed into commerce.

(e) Any distribution into commerce of an exhaust system which does not comply with the applicable standard is a prohibited act.

§ 205.171-10 Prohibition on distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the manufacturer to cease testing under § 205.171-9 after the manufacturer has taken the following actions:

(1) Submission of a written report to the Administrator which identifies the reason for the noncompliance of the exhaust systems, describes the problem and describes the proposed quality control or quality assurance remedies to be taken by the manufacturer to correct the problem.

(2) Demonstration that the specified exhaust system category has passed a retest conducted in accordance with § 205.171 and the conditions specified in the test request.

(b) The manufacturer may begin testing under paragraph (a)(2) of this section upon submitting the report, required by paragraph (a)(1) of this section any may cease continued testing upon making the demonstration required by paragraph (a)(2) of this section. The Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of paragraphs (a)(1) and (2) of this section.

(c) Any exhaust system failing the noise emission tests conducted pursuant to Appendix I may not be distributed into commerce until necessary adjustment or repairs have been made and the exhaust system passes a retest.

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57723, Dec. 28, 1982]

§ 205.172 Maintenance of records; submittal of information.

(a) Except as otherwise provided in regulation, the manufacturer of any new exhaust system subject to any of the standards or procedures prescribed in this subpart must establish, maintain and retain the following adequately organized and indexed records:

(1) General records:

(i) Identification and description by category parameters of all exhaust systems in the manufacturer's product line;

(ii) A description of any procedures other than those contained in this subpart used to perform noise emission tests on any test exhaust system;

(iii) A record of the calibration of the acoustical instrumentation as is described in appendix I;

(iv) A record of the date of manufacture of each exhaust system subject to this subpart, keyed to the serial number.

(2) Individual records for test exhaust systems:

(i) A complete record of all noise emission tests performed for Production Verification and Selective Enforcement Audit (except tests performed by EPA directly), including all individual worksheets and other documentation or exact copies relating to each test;

(ii) A record of the information recorded as described in Appendix I; and

(iii) A record and description of all repairs, maintenance and other servicing which were performed before successful testing of the exhaust system pursuant to these regulations and which could affect the noise emission of the exhaust system, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service.

(3) A properly filed production verification report following the format prescribed by the Administrator in § 205.168-3 fulfills the requirements of paragraphs (a)(1)(i) and (ii) of this section.

(4) All records required to be maintained under this subpart must be retained by the manufacturer for a period of three (3) years from the production verification date. Records may be retained as hard copy or alternatively reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer; however, when an alternative method is used, all information contained in the hard copy must be contained in the copy made by the alternative method.

(b) The manufacturer must, upon request, submit to the Administrator the following information with regard to new exhaust system production:

(1) Number of exhaust systems, by category, scheduled for production for the time period designated in the request.

(2) Number of exhaust systems, by category, produced during the time period designated in the request.

(c) The reporting requirements of this regulation will no longer be effective after five (5) years from the last effective date of this regulation. However, the requirements will remain in effect if the Administrator is taking appropriate steps to repromulgate or modify the reporting requirements at that time.

§ 205.173 In-use requirements.

§ 205.173-1 Warranty.

(a) The exhaust system manufacturer must include in the information supplied to the ultimate purchaser pursuant to § 205.173-4, the following statement:

> ### Noise Emission Warranty
>
> [The manufacturer] warrants that this exhaust system, at time of sale, meets all applicable U.S. E.P.A. Federal noise standards. This warranty extends to the first person who buys this exhaust system for purposes other than resale, and to all subsequent buyers. Warranty claims should be direct to _____. (Manufacturer shall fill in this blank with his name, address and telephone number.)

(b) [Reserved]

(c) All information must be sent to:

> Director, Noise and Radiation Enforcement Division (EN-387), Environmental Protection Agency, Washington, DC 20460.

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57723, Dec. 28, 1982]

§ 205.173-2 Tampering.

The manufacturer must include the following statement pursuant to § 205.173-4 with each product of that category the manufacturer distributes into commerce:

> ### Tampering Prohibition
>
> Federal law prohibits any modification to this exhaust system which causes the motorcycle to exceed the Federal noise standard. Use of the motorcycle with such a modified exhaust system is also prohibited.
>
> Acts likely to constitute tampering include removal or puncturing the muffler, baffles, header pipes, or any other component which conducts exhaust gases.

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57723, Dec. 28, 1982]

§ 205.173-3 Warning statement.

The manufacturer must include the following statement pursuant to § 205.173-4 with each product of that category the manufacturer distributes into commerce:

> Warning: This product should be checked for repair or replacement if the motorcycle noise has increased significantly through use. Otherwise, the owner may become subject to penalties under state and local ordinances.

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57723, Dec. 28, 1982]

§ 205.173-4 Information sheet.

The manufacturer must include the Noise Emissions Warranty statement, Tampering Prohibition statement and the Warning statement with each product. All three statements must be printed on a white sheet or card at least $8^{1}/_{2}$" × 11". Each statement must cover no more than $^{1}/_{3}$ of the sheet or card. No other printing must be on the sheet. The statements must be printed in black ink; the statement headings must be in capital letters in a minimum size type of 12 point (pica type) or its equal; and the text of the statement must be a minimum size type of 10 point (elite type) or its equal. The sheet or card must be placed with the exhaust system inside any packaging. If there is no packaging, the sheet or card must be affixed to the exhaust system so that it will not be accidentally detached in shipping.

§ 205.174 Remedial orders.

The Administrator may issue appropriate remedial orders to a manufacturer if products are distributed into commerce not in compliance with the regulations of this subpart. Potential orders are stop sale orders, orders to cease distribution, relabel, replace or recall, or any other orders appropriate in the specific circumstances. A remedial order will be issued only after notice and opportunity for a hearing in accordance with 5 U.S.C. 554.

Appendix I to Subparts D-E of Part 205—Motorcycle Noise Emission Test Procedures

Appendix I-1 to Subparts D and E—Test Procedure for Street and off-road Motorcycles

(a) ***Instrumentation.*** Proper usage of all test instrumentation is essential to obtain valid measurements. Operating manuals or other literature furnished by the instrument manufacturer must be referred to for both recommended operation of the instrument and precautions to be observed. The following instrumentation must be used, where applicable:

(1) A sound level measurement system which meets the type S1A requirements of American National Standard Specification for Sound Level Meters, ANSI S1.4-1971. As an alternative to making direct measurements using a sound level meter, a microphone or sound level meter may be used with a magnetic tape recorder and/or a graphic level recorder or indicating instrument provided that the system meets the performance requirements of ANSI S1.4-1971. The sound level measurement system must be calibrated at least annually to insure that the system meets the performance requirements of ANSI S1.4-1971.

(2) An acoustic calibrator with an accuracy of within ±0.5 dB. The calibrator must be checked annually to verify that its output is within the specified accuracy.

(3)

(i) An engine speed measurement system having the following characteristics:

(A) Steady-state accuracy of within ±3% of actual engine speed in the range of 45% to 100% of the engine speed (RPM) where peak net brake power (maximum rated RPM) is developed; and

(B) Response characteristics such that, when closing RPM is indicated under an acceleration as described below, actual engine speed is no more than 3 percent (of closing RPM) greater than the specified closing RPM.

(ii) The vehicle tachometer may be used to ascertain:

(A) The approach RPM provided it meets the specifications in paragraph (a)(3)(i)(A).

(B) The closing RPM provided it meets the specifications in paragraphs (a)(3)(i)(A) and (B).

(iii) Indirect engine speed measurement systems, such as systems which determine engine speed from vehicle speed measurement, may be used provided the specifications of paragraph (a)(1)(i) are met.

(4) An anemometer with steady-state accuracy of within ±10% at 20 km/h (12.4 mph).

(5) A microphone wind screen which does not affect microphone response more than ±0.5 dB for frequencies of 20-4000 Hz or ±1.0 dB for frequencies of 4000-10,000 Hz, taking into account the orientation of the microphone.

(b) ***Test site.***

(1) The measurement area within the test site must meet the following requirements and be laid out as described:

(i) The following points must be established:

(A) Microphone target point—a reference point on the vehicle path;

(B) End point—a point on the vehicle path 7.5 ±0.3m (24.6 ±1.0 ft) beyond the microphone target point, and

(C) Microphone location point—a point 15 ±0.3m (49.2 ±1.0 ft) from the microphone target point on a normal to the vehicle path through the microphone target point.

(ii) The microphone must be:

(A) Positioned at the microphone location point 1.2 ±0.1 m (3.9 ±0.3 ft) above the ground plane; and

(B) Oriented in a plane perpendicular to the vehicle path, and at an angle for which the microphone was calibrated to have the flatest response characteristics over the frequency range of 100 Hz to 10,000 Hz when measured with respect to the motorcycle source.

(iii) The surface of the ground within at least the triangular area formed by the microphone location and the points 15 ±0.3m (49.2 ±1.0 ft.) prior to and 15 ±0.3 m (49.2 ±1.0 ft.) beyond the microphone target point must be flat (+5 cm (2.0 in)) and level (grade not more than 0.5% along vehicle path), have a concrete or sealed asphalt surface, and be free from snow, soil or other extraneous material.

(iv) The vehicle path must be relatively smooth and of sufficient length for safe acceleration, deceleration and stopping of the motorcycle.

(2) The test site must be flat, open space free of large sound-reflecting surfaces (other than the ground), such as parked vehicles, sign-boards, buildings or hillsides located within a 30 ±0.3 m (98.4 ±1.0 ft) radius of the microphone location and the following points on the vehicle path (see Figure 1):

(i) The microphone location point;

(ii) A point 15 ±0.3 m (49.2 ±1.0 ft.) before the microphone target point; and

(iii) A point 15 ±0.3 m (49.2 ±1.0 ft) beyond the microphone target point.

(c) ***Measurement procedure.***

(1) To establish the acceleration point, the end point must be approached in second gear from the reverse of the intended test direction at a constant engine speed of 50% of maximum rated RPM or closing RPM less ten percent (of maximum rated RPM), whichever is lower, (±2.5% of observed reading). When the front of the motorcycle reaches the end point (approached from the reverse direction), the throttle must be smoothly and fully opened to accelerate the motorcycle past the microphone target point under wide open throttle. When the motorcycle reaches closing RPM the throttle must be smoothly and fully closed. An ignition disable device may be used to turn off the engine at closing RPM in lieu of closing the throttle manually. The location of the front of the motorcycle at the time of throttle closure is the acceleration point for the test runs. The test runs must be made in the opposite direction. A sufficient number of trial runs must be made to assure accurate establishment of the acceleration point.

(2) Closing RPM must be determined according to the motorcycle engine displacement, as follows (see Figure 2):

Displacement (cc)	Closing RPM (Fraction of maximum rated RPM—percent)
0 to 175	95

Displacement (cc)	Closing RPM (Fraction of maximum rated RPM—percent)
176 to 675	109 to 0.08 × (engine displacement in cc)
676 and above	55

(3) The distance from the acceleration point to the end point must be at least 10 m (32.8 ft). If this distance is less than 10 m (32.8 ft) by the procedure specified in paragraph (c)(1), above, third gear, if the motorcycle is so equipped, must be used. If the distance is still less than 10 m (32.8 ft), fourth gear, if the motorcycle is so equipped, must be used, and so on. If closing RPM is reached before the vehicle travels 10 m (32.8 ft), with the vehicle in its highest gear, the throttle must be opened less rapidly, but in such a manner that full throttle and closing RPM are attained at the end point.

(4) If the motorcycle is equipped with an automatic transmission, the procedure specified in paragraph (c)(1), must be followed except that the lowest selectable range must be employed, and the procedure specified in paragraph (c)(3) must be followed using the next selectable higher range, if necessary, and if the vehicle is so equipped. If closing RPM is reached before the vehicle travels 10 m (32.8 ft.), the throttle must be opened less rapidly, but in such a manner that full throttle and closing RPM are attained at the end point.

(5) Throttle opening must be controlled to avoid excessive wheel slip or lift-off.

(6) To conduct a sound measurement, the motorcycle must proceed along the vehicle path in the forward direction in second gear (or higher gear as applicable under paragraph (c)(3)) at a constant engine speed of 50% of maximum rated RPM or at closing RPM less ten percent (of maximum rated RPM), whichever is lower (±2.5 percent of observed reading). When the front of the vehicle reaches the acceleration point, the throttle must be smoothly and fully opened. Full acceleration must continue until closing RPM is reached, which must occur within ±1.0 m (3.3 ft.) of the end point, and at which time the throttle must be smoothly and fully closed. An ignition disable device may be used to turn off the engine at closing RPM in lieu of closing the throttle manually.

(7) A sufficient number of preliminary runs must be conducted before the testing to familiarize the rider with the test procedure and operating conditions of the vehicle. The engine temperature must be within the normal operating range prior to each run.

(d) ***Measurements.***

(1) The sound level meter must be set for fast response and for the A-weighting network. The microphone wind screen must be used. The sound level meter must be calibrated with the acoustic calibrator as often as is necessary throughout testing to maintain the accuracy of the measurement system.

(2) The sound level meter must be observed throughout the acceleration period. The highest sound level obtained for the run must be recorded.

(3) Measurements must be made until at least four readings from each side are within 2 dB of each other. The noise level for each side is the average of the four which are within 2 dB of each other. The noise level reported must be for that side of the motorcycle having the highest noise level.

(4) While making sound level measurements, not more than one person other than the rider and the observer reading the meter may be within 15 m (49.2 ft) of the vehicle or microphone, and that person must be directly behind the observer reading the meter, on a line through the microphone and the observer.

(5) The ambient noise level (including wind effects) at the test site due to sources other than the motorcycle being measured must be at least 10 dB lower than the noise level at the microphone location produced by the motorcycle under test.

(6) Wind speed at the test site during tests must be less than 20 km/h (12.4 mph).

(e) ***Required data.*** For each valid test, the following data must be recorded:

(1) Motorcycle type, serial number, model year, and date of manufacture.

(2) Names of persons conducting test.

(3) Test location.

(4) Wind speed and ambient noise level measured on the same day as the test and representative of conditions during the test.

(5) Motorcycle engine displacement, maximum rated RPM, and closing RPM.

(6) The gear used for testing if other than second gear; or type of transmission and description of testing if motorcycle is equipped with automatic transmission.

(7) Description of the sound level meter including type, serial number, and calibration date.

(8) Description of the external acoustic calibrator including type, serial number, and calibration date.

(9) Description of the tachometer or engine speed measurement system used for conducting the test.

(10) Maximum noise level for each pass on each side of the motorcycle including invalid readings and reasons for invalidation.

(11) Reported noise level.

(12) Other information as appropriate to completely describe testing conditions and procedure.

Appendix I-2 to Subparts D and E—Test Procedure for Street Motorcycles That Meet the Definition of § 205.151(a)(2)(ii) (Moped-type Street Motorcycles)

(a) ***Instrumentation.*** Proper usage of all test instrumentation is essential to obtain valid measurements. Operating manuals or other literature furnished by the instrument manufacturer must be referred to for both recommended operation of the instrument and precautions to be observed. The following instrumentation must be used, where applicable:

(1) A sound level measurement system which meets the type SIA requirements of American National Standard Specification for Sound Level Meters, ANSI S1.4-1971. As an alternative to making direct measurements using a sound level meter, a microphone or sound level meter may be used with a magnetic tape recorder and/or a graphic level recorder or indicating instrument provided that the system meets the performance requirements of ANSI S1.4-1971. The sound level measurement system must be calibrated at least annually to insure that the system meets the performance requirements of ANSI S1.4-1971.

(2) An acoustic calibrator with an accuracy of within ±0.5 dB. The calibrator must be checked annually to verify that its output is within the specified accuracy.

(3) An anemometer with steady-state accuracy of within ±10% at 20 km/h (12.4 mph).

(4) A microphone wind screen which does not affect microphone response more than ±0.5 dB for frequencies of 20-4000 Hz or ±1.0 dB for frequencies of 4000-10,000 Hz, taking into account the orientation of the microphone.

(b) ***Test site.***

(1) The measurement area within the test site must meet the following requirements and be laid out as described:

(i) The following points must be established:

(A) Microphone target point—a reference point on the vehicle path;

(B) End point—a point on the vehicle path 7.5 ±0.3 m (24.6 ±1.0 ft) beyond the microphone target point; and

(C) Microphone location point—a point 15 ±0.3 m (49.2 ±1.0 ft) from the microphone target point on a normal to the vehicle path through the microphone target point. Alternately, the microphone location point may be a point 7.5 ±0.3 m (24.6 ±1.0 ft) from the microphone target point provided that the sound level reported is adjusted as provided in this appendix under paragraph (d)(3).

(ii) The microphone must be:

(A) Positioned at the microphone location point 1.2 ±0.1 m (3.9 ±0.3 ft) above the ground plane; and

(B) Oriented in a plane perpendicular to the vehicle path, and at an angle for which the microphone was calibrated to have the flattest response characteristics over the frequency range of 100 Hz to 10,000 Hz when measured with respect to the motorcycle source.

(iii) The surface of the ground within at least the triangular area formed by the microphone location and the points 15 ±0.3 m (49.2 ±1 ft) prior to and 15 ±0.3 m beyond the microphone target point must be flat (±5 cm (2.0 in)) and level (grade not more than 0.5% along vehicle path), have a concrete or sealed asphalt surface, and be free from snow, soil or other extraneous material.

(iv) The vehicle path must be relatively smooth and of sufficient length for safe acceleration, deceleration and stopping of the motorcycle.

(2) The test site must be a flat, open space free of large sound-reflecting surfaces (other than the ground), such as parked vehicles, signboards, buildings or hillsides located within a 30 ±0.3 m (98.4 ±1.0 ft) radius of the microphone location and the following points on the vehicle path (see Figure 1):

(i) The microphone location point;

(ii) A point 15 ±0.3 m (49.2 ±1 ft) before the microphone target point; and

(iii) A point 15 ±0.3 m (49.2 ±1 ft) beyond the microphone target point.

(c) ***Measurement procedure.***

(1) The combined weight of the test rider and test equipment used on the motorcycle must not be more than 80 kg (176 lb) nor less than 75 kg (165 lb). Weights shall be placed on the motorcycle saddle behind the rider to compensate for any difference between the actual driver/equipment load and the required 75 kg (165 lb) minimum.

(2) The motorcycle must approach the microphone target point with the throttle fully open and in the highest gear. The motorcycle must start such that maximum speed is reached before the vehicle is within 7.5 m of the microphone target point. The motorcycle must continue along the vehicle path with fully open throttle and at maximum speed past the end point, at which time the throttle must be closed.

(3) If the motorcycle is equipped with an automatic transmission, the procedure of paragraph (1), above, must be followed except that the highest selectable range shall be employed.

(d) ***Measurements.***

(1) The sound level meter must be set for fast response and for the A-weighting network. The microphone wind screen must be used. The sound level meter must be calibrated with the acoustic calibrator as often as is necessary throughout testing to maintain the accuracy of the measurement system.

(2) The sound level meter must be observed throughout the passby period. The highest noise level obtained for the run must be recorded.

(3) At least three measurements shall be made for each side of the motorcycle. Measurements must be made until at least three readings from each side are within 2 dB of each other. The noise level for each side must be the average of the three. The noise level reported must be for that side of the motorcycle having the highest noise level. If the microphone location point is 7.5 m from the vehicle path as allowed in this appendix under paragraph (b)(1)(i)(c), the noise level must be adjusted by subtracting 6 dB prior to being reported.

(4) While making noise level measurements, not more than one person other than the rider and the observer reading the meter may be within 15 m (49.2 ft) of the vehicle or microphone, and that person must be directly behind the observer reading the meter, on a line through the microphone and the observer.

(5) The ambient sound level (including wind effects) at the test site due to sources other than the motorcycle being measured must be no greater than 60 dB if the microphone is located 15 m from the vehicle path or 66 dB if the microphone is located 7.5 m from the vehicle path as allowed in this appendix under paragraph (b)(1)(i)(c).

(6) Wind speed at the test site during tests must be less than 20 km/h (12.4 mph).

(e) ***Required data.*** For each valid test, the following data must be recorded:

(1) Motorcycle type, serial number, model year, and date of manufacture.

(2) Names of persons conducting test.

(3) Test location.

(4) Wind speed and ambient noise level measured on the same day as the test and representative of conditions during the test.

(5) Description of the sound level meter including type, serial number, and calibration date.

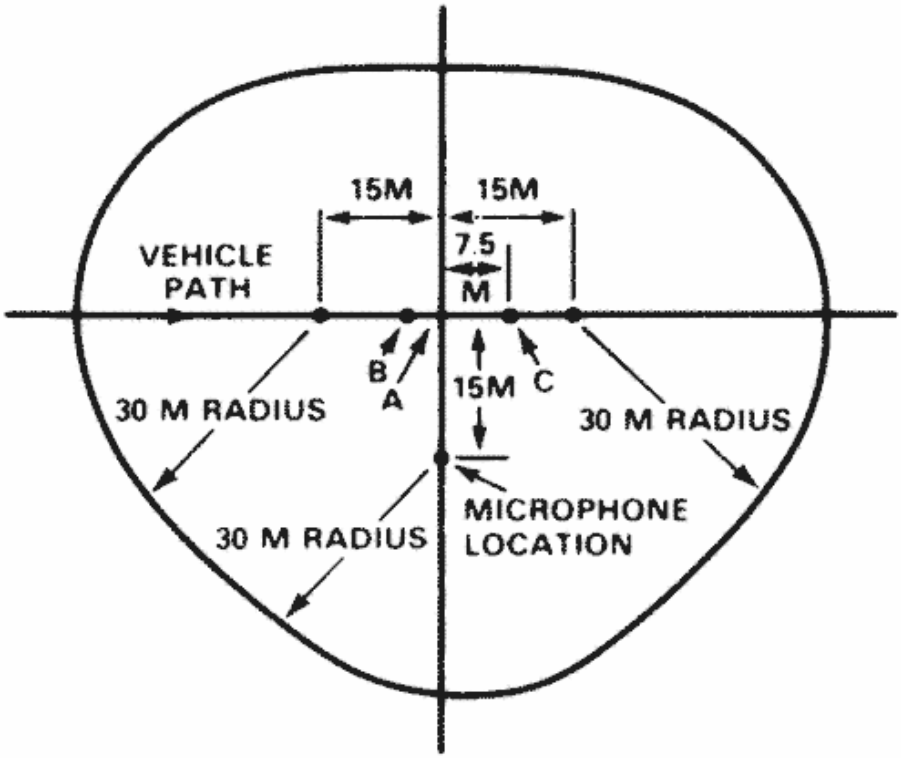
(6) Description of the external acoustic calibrator including type, serial number, and calibration date.

(7) Maximum noise level for each pass on each side of the motorcycle including invalid readings and reasons for invalidation.

(8) Reported noise level.

(9) Other information as appropriate to completely describe testing conditions and procedure.

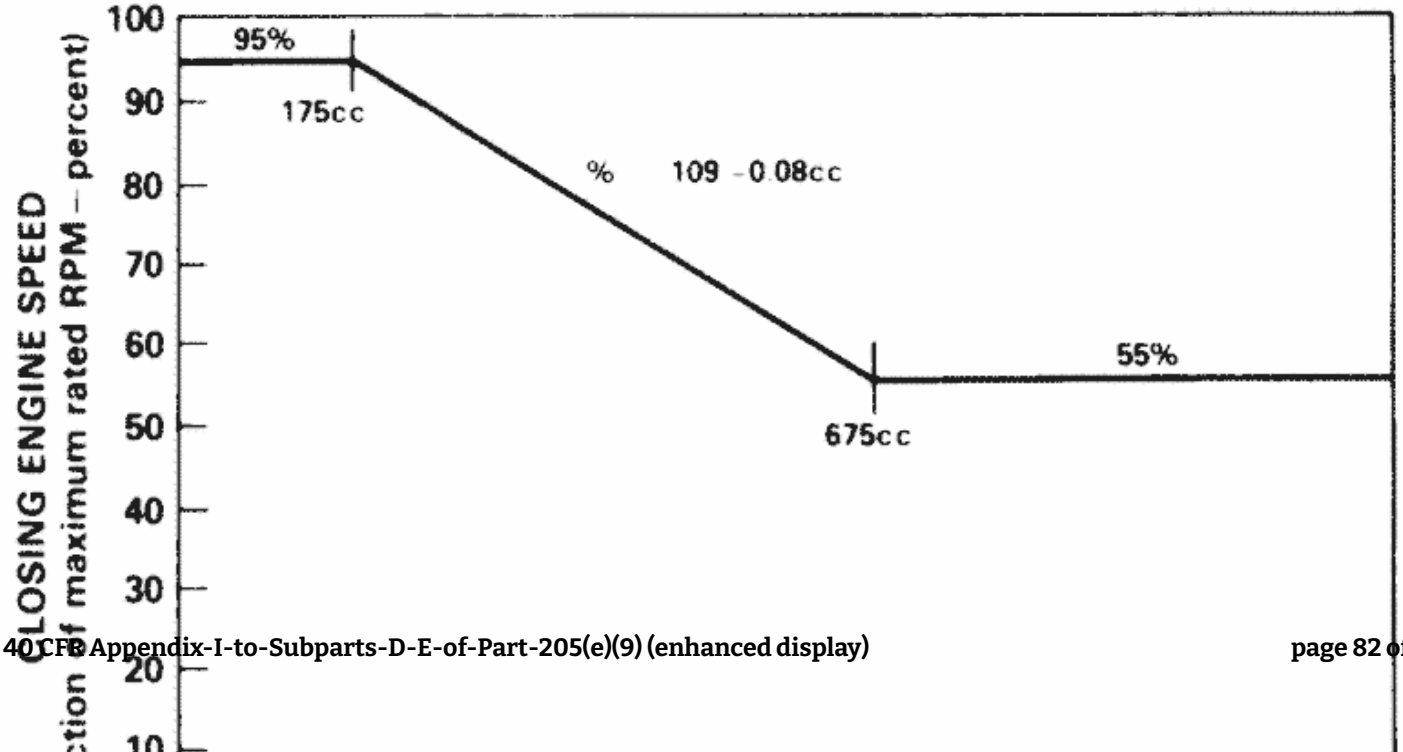
FIGURE 1 — TEST MEASUREMENT AREA



A – MICROPHONE TARGET POINT
B – ACCELERATION POINT (VARIABLE)
C – END POINT

TEST MEASUREMENT AREA

FIGURE 2 — CLOSING RPM



Appendix II to Subpart E of Part 205—Sampling Tables

Table 1—Model Year Production Volume of 50-99 Vehicles

Cumulative number of tests	Number of failing vehicles	
	Column A	Column B
1		
2		
3		3
4		3
5		3
6		3
7	0	3
8	0	4
9	0	4
10	0	4
11	1	4
12	1	4
13	1	5
14	1	5
15	2	5
16	2	5
17	2	5
18	2	5
19	2	5
20	4	5

Table 2—Model Year Production Volume of 100-199 Vehicles

Cumulative number of tests	Number of failing vehicles	
	Column A	Column B
1		
2		
3		3
4		3
5		3

Cumulative number of tests	Number of failing vehicles	
	Column A	Column B
6		3
7	0	4
8	0	4
9	0	4
10	0	4
11	1	4
12	1	5
13	1	5
14	1	5
15	1	5
16	2	5
17	2	5
18	2	5
19	2	5
20	4	5

TABLE 3—MODEL YEAR PRODUCTION VOLUME OF 200-399 VEHICLES

Cumulative number of tests	Number of failing vehicles	
	Column A	Column B
1		
2		
3		3
4		3
5		3
6		3
7	0	4
8	0	4
9	0	4
10	0	4
11	0	5
12	1	5
13	1	5
14	1	5
15	1	5

Cumulative number of tests	Number of failing vehicles	
	Column A	Column B
16	2	5
17	2	5
18	2	5
19	2	5
20	4	5

TABLE 4—MODEL YEAR PRODUCTION VOLUME OF 400 OR MORE VEHICLES

Cumulative number of tests	Number of failing vehicles	
	Column A	Column B
1		
2		
3		3
4		3
5		3
6		4
7	0	4
8	0	4
9	0	4
10	0	4
11	0	5
12	1	5
13	1	5
14	1	5
15	1	5
16	2	5
17	2	5
18	2	5
19	2	5
20	4	5