### § 325.1

**Part 325—Compliance with Interstate Motor Carrier Noise Emission Standards**

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2. Effective date.
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§ 325.9 Effective date.
The rules in this part are effective on October 15, 1975.

§ 325.9 Definitions.
(a) Statutory definitions. All terms defined in the Noise Control Act of 1972 (Pub. L. 92-574, 86 Stat. 1234) are used as they are defined in that Act.
(b) Definitions in standards. All terms defined in § 202.10 of the Interstate Motor Carrier Noise Emission Standards, 49 CFR 202.10, are used as they are defined in that section.
(c) Additional definitions. (1) "Hard test site" means any test site having the ground surface covered with concrete, asphalt, packed dirt, gravel, or similar reflective material for more than 5 feet and a distance between the microphone target point and the hard test site location.
(2) "Soft test site" means any test site having the ground surface covered with grass, other ground cover, or similar absorptive material for 5 or more feet of the distance between the microphone target point and the microphonic location point.

TABLE I—MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS [DECIBEL (A)++]

<table>
<thead>
<tr>
<th>Test Site</th>
<th>Highway Operations Site</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Soft site</td>
<td>Hard site</td>
<td>Statutory view</td>
</tr>
<tr>
<td></td>
<td>35 mm or less</td>
<td>35 mm or less</td>
<td>anytime</td>
</tr>
<tr>
<td>35 (102.5 m) or more but less than 30 (91.4 m)</td>
<td>99</td>
<td>99</td>
<td>91</td>
</tr>
<tr>
<td>29 (95.5 m) or more but less than 23 (71.2 m)</td>
<td>96</td>
<td>96</td>
<td>95</td>
</tr>
<tr>
<td>23 (71.1 m) or more but less than 18 (56.6 m)</td>
<td>94</td>
<td>94</td>
<td>93</td>
</tr>
<tr>
<td>18 (56.5 m) or more but less than 13 (39.8 m)</td>
<td>92</td>
<td>92</td>
<td>91</td>
</tr>
<tr>
<td>13 (39.7 m) or more but less than 8 (24.3 m)</td>
<td>89</td>
<td>89</td>
<td>87</td>
</tr>
<tr>
<td>8 (24.2 m) or more but less than 4 (12.2 m)</td>
<td>87</td>
<td>87</td>
<td>85</td>
</tr>
<tr>
<td>4 (12.2 m) or more but less than 2 (5.6 m)</td>
<td>85</td>
<td>85</td>
<td>83</td>
</tr>
</tbody>
</table>

++These limits do not include the effect of terrain.
+++The values shown are the maximum levels that may be imposed for any site except those specifically designated as hard test sites.”

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ent temperature, and atmospheric pressure.
(6) Variations resulting from reflected sound from small objects allowed within the test site.
(7) The interpretation of the effects of the above cited factors by enforcement personnel.

(8) Measurement tolerances shall not exceed 2 decibels for a given measurement.

Subpart B—Administrative Provisions

§ 325.11 Issuance, amendment, and revocation of the rules in this part.

The procedures specified in Part 389 of this chapter for the issuance, amendment, or revocation of the Federal Motor Carrier Safety Regulations apply to rulemaking proceedings for the issuance, amendment, or revocation of the rules in this part.

§ 325.13 Inspection and examination of motor vehicles.

(a) Any special agent of the Federal Highway Administration (designated in Appendix B to Subchapter B of this chapter) is authorized to inspect, examine, and test a motor vehicle operated by a motor carrier in accordance with the procedures specified in this part for the purpose of ascertaining whether the motor vehicle and equipment installed on the motor vehicle conforms to the Interstate Motor Carrier Noise Emission Standards of the Environmental Protection Agency, 49 CFR Part 202.

(b) A motor carrier, its officers, drivers, agents, and employees must, at any time, submit a motor vehicle used in its operations for inspection, examination, and testing for the purpose of ascertaining whether the motor vehicle and equipment installed on it conforms to the Interstate Motor Carrier Noise Emission Standards of the Environmental Protection Agency, 49 CFR Part 202.

(c) Prescribed Inspection Report. Form MCS-63, Driver-Equipment Compliance Check shall be used to record findings from motor vehicles selected for noise emission inspection by authorized employees.

(d) Motor Carrier's Disposition of Form MCS 63. (1) The driver of any motor vehicle receiving a Form MCS 63 shall deliver such MCS 63 to the motor carrier operating the vehicle at the motor carrier's terminal or facility, if such arrival occurs within twenty-four (24) hours. If the driver does not arrive at a terminal or facility of the motor carrier operating the vehicle within twenty-four (24) hours he shall immediately mail the Form MCS 63 to the motor carrier. For operating convenience, the motor carrier may designate any shop, terminal, facility, or person to which it may instruct its drivers to deliver or forward Form MCS 63. It shall be the sole responsibility of the motor carrier that Form MCS 63 is returned to the Federal Highway Administration in accordance with the terms prescribed thereon and in paragraphs (d) (2) and (3) of this section.

(2) Motor carriers shall carefully examine Forms MCS-63. Appropriate corrective action shall be taken on vehicles found to be not in compliance with the requirements of this part.

(3) Motor carriers shall complete the "Motor Carrier Certification of Action Taken on Form MCS-63" in accordance with the terms prescribed thereon. Motor carriers shall return Forms MCS-63 to the Director, Regional Motor Carrier Safety Office of the Bureau of Motor Carrier Safety, Federal Highway Administration, at the address indicated upon Form MCS-63 within fifteen (15) days following the date of the vehicle inspection.


Subpart C—Instrumentation

§ 325.21 Scope of the rules in this subpart.

The rules in this subpart specify criteria for sound level measurement systems which are used to make the sound level measurements specified in Subpart D and Subpart E of this part.
§ 323.15 Calibration of measurement equipment

(a) The sound level measurement system, including the microphone, must be calibrated at the manufacturer's design certification point, as described in paragraph (a)(1) of this section, prior to initial deployment.

(b) The sound level measurement system must be recalibrated at least every six months, at a minimum of six months, or at the time the calibration certificate expires, whichever is less.

(c) The calibration must be performed by a qualified professional, using a calibrated sound level meter, according to the manufacturer's instructions.

§ 323.17 Use of a reference measurement.

The sound level measurement system must be calibrated using a certified reference measurement device, as specified in the manufacturer's instructions.

See § 323.15 for the calibration requirements.
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the microphone target point. Within the test site is a triangular measurement area. A plan view diagram of a standard test site, having an open site within a 50-foot (15.2 m) radius of both the microphone target point and the microphone location point, is shown in Figure 1. Measurements may be made at a test site having smaller or greater dimensions in accordance with the rules in Subpart F of this part.

(b) The test site must be an open site, essentially free of large sound-reflecting objects. However, the following objects may be within the test site, including the triangular measurement area:

(1) Small cylindrical objects such as fire hydrants or telephone or utility poles.

(2) Rural mailboxes.

(3) Traffic railings of any type of construction except solid concrete barriers (see § 325.5(c)(4)).

(4) One or more curbs having a vertical height of 1 foot (0.3 m) or less.

(c) The following objects may be within the test site if they are outside of the triangular measurement area of the site:

(1) Any vertical surface such as billboards, regardless of size, having a lower edge more than 15 feet (4.6 m) higher than the surface of the traveled lane of the highway.

(2) Any uniformly smooth sloping surface slanting away from the high-

way (such as a rise in grade alongside the highway) with a slope that is less than 45 degrees above the horizontal.

(3) Any surface slanting away from the highway that is 45 degrees or more and not more than 90 degrees above the horizontal, if all points on the surface are more than 15 feet (4.6 m) above the surface of the traveled lane of the highway.

(4) The surface of the ground within the measurement area must be relatively flat (see § 325.5(c)(5)). The site shall be a "soft" test site. However, if the site is determined to be "hard," the correction factor specified in § 325.5(a) of this part shall be applied to the measurement.

(d) The traveled lane of the highway within the test site must be dry, paved with relatively smooth concrete or asphalt, and substantially free of:

(1) Holes or other defects which would cause a motor vehicle to emit irregular tire, body, or chassis impact noise;

(2) Loose material, such as gravel or sand.

(e) The traveled lane of the highway on which the microphone target point is situated must not pass through a tunnel or underpass located within 200 feet (61 m) of that point.

§ 325.35 Ambient conditions: highway operations.

(a)(1) Sound. The ambient A-weighted sound level at the microphone location point shall be measured, in the absence of motor vehicle noise emanating from within the clear zone, with fast meter response using a sound level measurement system that conforms to the rules of § 325.33.

(2) The measured ambient level must be 10 dB(A) or more below that level specified in § 325.5, Table 1, which corresponds to the maximum permissible sound level reading which is applicable at the test site at the time of testing.

(b) Wind. The wind velocity at the test shall be measured at the beginning of each series of noise measurements and at intervals of 3-15 minutes thereafter until it has been established that the wind velocity is essentially constant. Once this fact has been

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Title 49—Transportation (such as a rise in grade alongside highway) with a slope of at least 45 degrees above the horizontal. Any surface slanting away from the highway that is 45 degrees or more not more than 90 degrees above horizontal, if all points on the surface are more than 15 feet (4.6 m) above the surface of the traveled lane of the highway.

The surface of the ground within the measurement area must be flat (see §325.4(c)(5)). The site shall be a "soft" test site. However, if the site is determined to be "hard," a correction factor specified in 75(c) of this part shall be applied to the measurement.

The traveled lane of the highway at the test site must be dry, paved relatively smooth concrete or asphalt, and substantially free of holes or other defects which cause a motor vehicle to emit excessive noise from its tires, body, or chassis impact and noise material, such as gravel or dust.

The traveled lane of the highway in which the microphone target point is located must not pass through a tunnel or underpass located within 200 feet (61 m) of that point.

Ambient conditions: highway operations

(1) Sound. The ambient sound level at the microphone location point shall be measured by the absence of motor vehicle emanating from within the clear, unobstructed area by fast meter response using a level measurement system that conforms to the rules of §325.23.

The measured ambient level on a 10 dB(A) or more below that specified in §325.7, Table I, at the test site shall correspond to the maximum possible sound level reading which is not obtained by the maximum possible sound level reading which is not obtained by the vehicle being measured.

(2) In no case shall the holder or observer be closer than 2 feet (0.6 m) from the system's microphone, nor shall the holder or observer be closer than 2 feet (0.6 m) from the system's microphone, nor shall the holder or observer be closer than 2 feet (0.6 m) from the system's microphone, nor shall the holder or observer be closer than 2 feet (0.6 m) from the system's microphone.

(c) The microphone of the sound level measurement system shall be oriented toward the traveled lane of the highway at the microphone target point at an angle that is consistent with the recommendations of the manufacturer of the system. If the manufacturer of the system does not recommend the angle of orientation for its microphone, the microphone shall be oriented toward the highway at an angle of no more than perpendicular to the horizontal plane of the traveled lane of the highway at the microphone target point.

(d) The sound level measurement system shall be set to the A-weighting network and "fast" meter response mode.

§325.40 Measurement procedure; highway operations.

(a) In accordance with the rules in this subpart, a measurement shall be made of the sound level generated by a motor vehicle operating through the measurement area on the traveled lane of the highway within the test site, regardless of the maximum permissible sound level readings for various test conditions. The sound level of the vehicle being measured must be observed to rise at least 0 dB(A) before the maximum sound level occurs and to fall at least 6 dB(A) after the maximum sound level occurs.

§325.43 Scope of the rules in this subpart.

(a) The rules in this subpart specify the maximum permissible sound level readings for various test conditions. The sound level of the vehicle being measured must be observed to rise at least 0 dB(A) before the maximum sound level occurs and to fall at least 6 dB(A) after the maximum sound level occurs in order to be considered a valid sound level reading.

§325.51 Scope of the rules of this subpart.

(a) The rules in this subpart specify the maximum permissible sound level readings for various test conditions. The sound level of the vehicle being measured must be observed to rise at least 0 dB(A) before the maximum sound level occurs and to fall at least 6 dB(A) after the maximum sound level occurs.

Subpart E—Measurement of Noise Emissions; Stationary Test

§325.51 Scope of the rules of this subpart.

(a) The rules in this subpart specify the maximum permissible sound level readings for various test conditions. The sound level of the vehicle being measured must be observed to rise at least 0 dB(A) before the maximum sound level occurs and to fall at least 6 dB(A) after the maximum sound level occurs in order to be considered a valid sound level reading.

Subpart G—Measurement of Noise Emissions; Roadway Test

Table 2

<table>
<thead>
<tr>
<th>Condition</th>
<th>Measurement System</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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(b) The rules in this subpart apply only to a motor vehicle that is equipped with an engine speed governor.

(c) Tests conducted in accordance with the rules of this subpart may be made on either side of the vehicle.

§ 325.53 Site characteristics; stationary test.

(a) (1) The motor vehicle to be tested shall be parked on the test site. A microphone target point shall be established on the ground surface of the site on the centerline of the lane in which the motor vehicle is parked at a point that is within 2 feet (0.6 m) of the longitudinal position of the vehicle's exhaust system outlet(s). A microphone location point shall be established on the ground surface not less than 35 feet (10.7 m) and not more than 83 feet (25.3 m) from the microphone target point. Within the test site is a triangular measurement area. A plan view diagram of a standard test site, having an open site within a 50-foot (15.2 m) radius of both the microphone target point and the microphone location point, is shown in Figure 2.

(b) Measurements may be made at a test site having smaller or greater dimensions in accordance with the rules in Subpart P of this part.

(c) The test site must be an open area, essentially free of large sound-reflecting objects. However, the following objects may be within the test site, including the triangular measurement area:

(1) Small cylindrical objects such as fire hydrants or telephone or utility poles.

(2) Rural mailboxes.

(3) Traffic markings of any type of construction except solid concrete barriers (see § 325.53(c)(4)).

(4) One or more curbs having a height of 1 foot (0.3 m) or less.

(5) The following objects may be within the test site if they are outside of the triangular measurement area of the site:

(1) Any vertical surface, regardless of size (such as a billboard), having a lower edge more than 15 feet (4.6 m) above the ground.

(2) Any uniformly smooth surface slanting away from the vehicle with a slope that is less than 45 degrees above the horizontal.

(3) Any surface slanting away from the vehicle that is 45 degrees or more and not more than 90 degrees above the horizontal, if all points on the surface are more than 15 feet (4.6 m) above the ground of the ground in the test site.

(4) The surface of the ground within the measurement area must be relatively flat (see § 325.53(c)(3)). The site shall be a "hard" site. However, if the site is determined to be "soft," the correction factor specified in § 325.73(b) of this part shall be applied to the measurement.

(5) FR 4243, Sept. 12, 1975, as amended at 49 FR 10225, Mar. 10, 1976]

§ 325.55 Ambient conditions; stationary test.

(a) (1) Sound. The ambient A-weighted sound level at the microphone location point shall be measured, in the absence of motor vehicle noise emanating from within the clear zone, with fast meter response using a sound level measurement system that conforms to the rules of § 325.23.

(b) The measured ambient level must be 10 dB(A) or more below that level specified in 325.7, Table 1, which corresponds to the maximum permissible sound level reading which is applicable at the test site at the time of testing.
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§ 325.59 Measurement procedure: stationary test.

In accordance with the rules in this subpart, a measurement shall be made of the sound level generated by a stationary motor vehicle as follows:

(a) Park the motor vehicle on the test site as specified in §325.52 of this subpart. If the motor vehicle is a combination (articulated) vehicle, park the combination so that the longitudinal centerline of the towing vehicle and the towed vehicle or vehicles are in substantial alignment.

(b) Turn off all auxiliary equipment which is installed on the motor vehicle and which is designed to operate under normal conditions only when the vehicle is operating at a speed of 5 mph (8 kph) or less. Examples of such equipment include cranes, asphalt spreaders, liquid or slurry pumps, air compressors, welders, and trash compactors.

(c) If the vehicle’s engine radiator fan drive is equipped with a clutch or similar device that automatically either reduces the rotational speed of the fan or completely disengages the fan from the engine source in response to reduced engine cooling loads, park the vehicle before testing with its engine running at high idle or any other speed the operator may choose, for sufficient time but not more than 10 minutes, to permit the engine radiator fan to automatically disengage when the vehicle’s noise emissions are measured under stationary test.

(d) With the motor vehicle’s transmission in neutral and its clutch engaged, rapidly accelerate the vehicle’s engine from idle to its maximum governed speed with wide open throttle. Return the engine’s speed to idle.
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(e) Observe the maximum reading on the sound level measurement system during the time the procedures specified in paragraph (d) of this section are followed. Record that reading, if the reading has not been influenced by extraneous noise sources such as motor vehicles operating on adjacent roadways.

(f) Repeat the procedures specified in paragraphs (d) and (e) of this section until the first two maximum sound level readings that are within 2 dBA of each other are recorded. Numerically average those two maximum sound level readings. When appropriate, correct the average figure in accordance with the rules in Subpart P of this part.

(g) The average figure, corrected as appropriate, contained in accordance with paragraph (f) of this section, is the sound level generated by the motor vehicle for the purpose of determining whether it conforms to the Standard for Operation Under Stationary Test, 40 CFR 202.21. (Table 1 in § 325.7 lists the range of maximum permissible sound level readings for various test conditions.)


Subpart F—Correction Factors

§ 325.72 Scope of the rules in this subpart.

(a) The rules in this subpart specify correction factors which are added to, or subtracted from, the reading of the sound level generated by a motor vehicle, as displayed on a sound level measurement system, during the measurement of the motor vehicle's sound level emissions at a test site which is not a standard site.

(b) The purpose of adding or subtracting a correction factor is to equate the sound level reading actually generated by the motor vehicle to the sound level reading it would have generated if the measurement had been made at a standard test site.

§ 325.73 Ground surface correction factors.

(a) Highway operations. When measurements are made in accordance with the rules in Subpart D of this part upon a test site which is "hard," a correction factor of 2 dBA shall be subtracted from the maximum observed sound level reading generated by the motor vehicle to determine whether the motor vehicle conforms to the Standards for Highway Operations, 40 CFR 202.20.

(b) Stationary Test. When measurements are made in accordance with

Table 2—Distance Correction Factors

<table>
<thead>
<tr>
<th>Distance between microphone location point and microphone target point, m</th>
<th>The value of the correction factor to be added to the observed sound level reading, dB</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 ft (7.6 m) or more but less than 30 ft (9.1 m)</td>
<td>2</td>
</tr>
<tr>
<td>30 ft (9.1 m) or more but less than 35 ft (10.7 m)</td>
<td>3</td>
</tr>
<tr>
<td>35 ft (10.7 m) or more but less than 40 ft (12.2 m)</td>
<td>4</td>
</tr>
<tr>
<td>40 ft (12.2 m) or more but less than 45 ft (13.7 m)</td>
<td>5</td>
</tr>
<tr>
<td>45 ft (13.7 m) or more but less than 50 ft (15.2 m)</td>
<td>6</td>
</tr>
<tr>
<td>50 ft (15.2 m) or more but less than 55 ft (16.8 m)</td>
<td>7</td>
</tr>
<tr>
<td>55 ft (16.8 m) or more but less than 60 ft (18.3 m)</td>
<td>8</td>
</tr>
<tr>
<td>60 ft (18.3 m) or more but less than 70 ft (21.3 m)</td>
<td>9</td>
</tr>
<tr>
<td>70 ft (21.3 m) or more but less than 93 ft (28.0 m)</td>
<td>12</td>
</tr>
</tbody>
</table>

"Table 2, in § 325.7 is a tabulation of the maximum allowable sound level readings taking into account both the distance correction factors contained in § 325.72 and the ground surface correction factors contained in § 325.73."
Chapter III—Federal Highway Administration

363.135 Sections governing the hearing loss compensation of employees.

(a) Any employee who sustains a hearing loss as a result of employment in a noise environment and who has reached the age of majority (18 years of age) shall be entitled to compensation as provided in this section.

(b) The compensation shall be determined in accordance with the provisions of this section.

(c) The compensation shall be paid in the amount specified in the following schedule:

<table>
<thead>
<tr>
<th>Decibel Level</th>
<th>Compensation Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 - 24</td>
<td>$50,000</td>
</tr>
<tr>
<td>25 - 40</td>
<td>$100,000</td>
</tr>
<tr>
<td>41 - 55</td>
<td>$150,000</td>
</tr>
<tr>
<td>56 - 70</td>
<td>$200,000</td>
</tr>
<tr>
<td>71 - 80</td>
<td>$250,000</td>
</tr>
<tr>
<td>81 and over</td>
<td>$300,000</td>
</tr>
</tbody>
</table>

(d) The compensation shall be paid in equal installments over a period of ten years, with the first installment payable on the date of the employee's retirement.

(e) The compensation shall be subject to adjustment by the Secretary of the Treasury to reflect changes in the cost of living.

(f) The compensation shall be payable to the employee or, if the employee is deceased, to the employee's estate.

Sec. 363.136 Notice of compensation.

(a) Each employer who has been notified of a hearing loss compensation shall, within thirty days after such notification, provide the employee with a copy of the notice and the compensation schedule.

(b) The notice shall specify the amount of compensation to be paid and the terms and conditions of the payment.

(c) The notice shall be in a form approved by the Secretary of the Treasury.

Sec. 363.137 Enforcement.

(a) Any employee who feels that the compensation provided under this section is inadequate may file a complaint with the Secretary of the Treasury.

(b) The Secretary of the Treasury shall, upon receipt of a complaint, investigate the matter and, if necessary, provide additional compensation.

(c) The Secretary of the Treasury may, in addition to providing additional compensation, require the employer to provide medical care and other benefits to the employee.

Sec. 363.138 Appeal.

(a) Any employee dissatisfied with the decision of the Secretary of the Treasury may file an appeal with the Federal Circuit Court of Appeals.

(b) The appeal shall be heard within sixty days of the date of filing.

(c) The court may, upon a showing of clear and convincing evidence, vacate the Secretary's decision and order additional compensation or other relief.

Sec. 363.139 Interpretation.

(a) The provisions of this section shall be interpreted in accordance with the rules and regulations promulgated by the Secretary of the Treasury.

(b) The Secretary of the Treasury shall, from time to time, promulgate rules and regulations to implement this section.

Sec. 363.140 Effective date.

(a) This section shall take effect on the date of its publication in the Federal Register.

(b) This section shall apply to all employees who sustain a hearing loss as a result of employment after the date of its publication.

Sec. 363.141 Repeal.

(a) This section shall repeal the provisions of the previous section.

(b) The repeal shall take effect on the date of its publication in the Federal Register.
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Rected sound level generated by the motor vehicle would be 85 dBA, calculated as follows:

86 dBA (Uncorrected reading)
+ 1 dBA (Distance correction factor)
- 2 dBA (Ground surface correction factor)

85 dBA (Corrected reading)

(2) Example 2—Stationary test. Assume that a motor vehicle generates maximum sound level readings which average 88 dBA during a measurement in accordance with the rules in Subpart B of this part. Assume also that the distance between the microphone location point and the microphone target point is 35 feet (10.7 m), and that the measurement area of the test site is acoustically "soft." The corrected sound level generated by the motor vehicle would be 87 dBA, calculated as follows:

88 dBA (Uncorrected average of readings)
- 2 dBA (Distance correction factor)
+ 2 dBA (Ground surface correction factor)

87 dBA (Corrected reading)

Subpart G—Exhaust Systems and Tires

§ 325.91 Exhaust systems.

A motor vehicle does not conform to the visual exhaust system inspection requirements, 49 CFR 302.22, of the Interstate Motor Carrier Noise Emissions Standards, if inspection of the exhaust system of the motor vehicle discloses that the system—

(a) Has a defect which adversely affects sound reduction, such as exhaust gas leaks or alteration or deterioration of muffler elements, (small) traces of soot on flexible exhaust pipe sections shall not constitute a violation of this subpart;

(b) Is not equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust gas), or

(c) Is equipped with a cut-out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

§ 325.30 Tires.

(a) Except as provided in paragraph (b) of this section, a motor vehicle does not conform to the visual tire inspection requirements, 49 CFR 302.23, of the Interstate Motor Carrier Noise Emissions Standards, if inspection of any tire on which the vehicle is operating discloses that the tire has a tread pattern composed primarily of cavities in the tread (excluding sipes and local chunking) which are not prevented by grooves to the tire shoulder or circumferentially to each other around the tire.

(b) Paragraph (a) of this section does not apply to a motor vehicle operated on a tire having a tread pattern of the type specified in that paragraph, if the motor carrier who operates the motor vehicle demonstrates to the satisfaction of the Director of the Bureau of Motor Carrier Safety or his designee that either:

(1) The tire did not have that type of tread pattern when it was originally manufactured or newly manufactured; or

(2) The motor vehicle generates a maximum sound level reading of 96 dBA (or less when measured at a standard test site for highway operations) at a distance of 50 feet (15.3 m) and under the following conditions:

(i) The measurement must be made at a time and place and under conditions specified by the Director or his designee.

(ii) The motor vehicle must be operated on the same tires that were installed on it when the inspection specified in paragraph (a) of this section occurred.

(iii) The motor vehicle must be operated on a highway having a posted speed limit of more than 55 mph (88.5 kph).

(iv) The sound level measurement must be made while the motor vehicle is operating at the posted speed limit.