EN viromental Protection Agency

40 CFR Parts 204, 18S and 211.


AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency hereby amends product verification testing and the attendant reporting and recordkeeping requirements for:
1. Noise Emission Standards for Portable Air Compressors, 40 CFR Part 204.
2. Noise Emission Standards for Medium and Heavy Trucks, 40 CFR Part 211.8S.

This action stems from the Administrator's budget for fiscal year 1982 which did not contain funding for the Noise Enforcement Division to accept or act on the product verification reports after fiscal year 1982. Also, based on the comments received, EPA is amending the production verification testing provisions.

AFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Louise Glorek, (202) 224-2025.

SUPPLEMENTARY INFORMATION: EPA promulgated noise regulations which established noise emission standards or labeling requirements for the following:

Each of the noise regulations, listed above, imposes certain recordkeeping, and reporting requirements on the manufacturer of the regulated products. Contained within these regulations are specific provisions for (1) Production Verification Testing, (2) Testing by the Administrator, and (3) Selective Enforcement Auditing. The provisions encompassing "Production Verification (PV) Testing" describe highly structured requirements to test products on an annual basis for compliance with applicable noise emission standards in accordance with certain specified procedures. Provisions authorizing "Testing by the Administrator" describe the discretionary basis upon which the Administrator may require the testing of products to determine compliance with applicable noise emission standards as well as to determine the appropriateness of a manufacturer's test facility to conduct such product testing. The provisions related to "Selective Enforcement Auditing" authorize the Administrator on a discretionary basis, or require manufacturers to conduct mandatory testing of products upon formal request. The latter two provisions apply only when an issue arises concerning product compliance with the applicable noise emission standard, while the former (PV Testing) provisions are required to be met on an annual basis.

Among these provisions there are various recordkeeping and reporting requirements, including the development and submission of PV testing reports and retention of test data supporting such reports.

On August 14, 1981, EPA suspended enforcement of reporting and recordkeeping requirements for each of these regulations (48 FR 41207) and simultaneously proposed revocation of the reporting and recordkeeping provisions for each of these regulations (48 FR 41204). The action stemmed from that portion of the Administrator's budget for Fiscal Year 1982, which did not contain funding for the Noise Enforcement Division to accept or act on the product verification reports after fiscal year 1982.

A 30 day comment period was established to allow interested parties to comment on the notice of proposed rulemaking. Fourteen written comments were received.

For the reasons discussed in the proposal and summarized below, this final action redefines the reporting and recordkeeping requirements as proposed. Additionally, in response to the comments received, EPA is amending the production verification testing provisions of these regulations.

1. Public Comments:

   Of the fourteen written comments received, seven were from six different manufacturers, three from trade associations, one from a public interest legal organization and one from a private citizen.

   Four manufacturers commented on the substance of the proposed action and voiced their support. Two of the four also recommended revocation of the product verification and selective enforcement audit requirements in place when the federal regulations in question are parallel to applicable Federal noise emission standards. Other comments by the manufacturers were in a manner consistent with applicable Federal noise emission standards. Other comments by the manufacturers were in a manner consistent with applicable Federal noise emission standards. Other comments by the manufacturers were in a manner consistent with applicable Federal noise emission standards.

The three trade associations supported the proposed action, but also requested that additional steps be taken to reduce regulatory burdens on industry. One association suggested the elimination of product verification and selective enforcement audit provisions to allow manufacturers additional flexibility in complying with applicable Federal standards.

One state agency supported the proposed action, and the other state agencies also recommended revocation of the regulations.

The notice of proposed rulemaking also announced that EPA was considering the revision of regulations and recordkeeping provisions of its noise emission regulations. EPA retains the authority and regulatory tools to enforce the noise emission regulations both under the Agency's general authority in Section 113 of the New Federalism Act and under selective enforcement auditing and testing by the Administrator. EPA believes the regulations within the scope of the rulemaking should be reconsidered.

The notice of proposed rulemaking also announced that EPA was considering the revision of reporting and recordkeeping provisions of its noise emission regulations. EPA retains the authority and regulatory tools to enforce the noise emission regulations both under the Agency's general authority in Section 113 of the New Federalism Act and under selective enforcement auditing and testing by the Administrator.

The private citizen provided general comments on noise emitted by trucks and motorcycles.

2. Agency Action:

EPA has considered current and proposed future Agency resources, the President's policy to reduce the burden of federal regulations, and public comments where appropriate, and has decided to reissue the reporting and
Retaining these provisions should not burden the regulated manufacturers. Both the selective enforcement auditing and testing by the Administrator provisions are discretionary. Under product verification, recordkeeping, and reporting requirements, they do not require manufacturers to take actions or expend resources except where the Administrator determines the facts so warrant.

This section affects only the product verification testing and the reporting and recordkeeping requirements of the regulations. All other provisions of the existing regulations remain in effect. Regulated products remain subject to the noise emission standards, labeling, and warranty requirements of the regulations. Moreover, although EPA will not directly monitor compliance with these regulations, states, localities, and individuals can still initiate actions under Section 12(i) of the Noise Control Act (42 U.S.C. 1411) which provides for citizens’ suits to enforce noise control standards. States and localities can also continue to exercise their powers to establish in-use controls for federally regulated products, as provided in Section 6(e) of the Act.

5. Regulatory Review

EPA has determined that this final rulemaking is not a major rule under Executive Order 12866, and therefore does not require a Regulatory Impact Analysis. EPA does not anticipate any significant adverse effects on competition, employment, investment, productivity, or innovation in the regulated industries. This action will result in a significant reduction in manufacturers’ testing, reporting and recordkeeping burdens for the regulated industries and is directly translated into cost savings to those industries.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12866.

Under the provisions of the Regulatory Flexibility Act, 5 U.S.C. Section 603 et seq., the Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule affects only the product verification testing and attendant recordkeeping and reporting requirements of the regulations, other portions of the regulations are unchanged. Reduced testing, reporting, and recordkeeping will ease the economic burdens of the affected manufacturer and should have no adverse economic effects.

204.9-2 Tampering.

204.9-3 Instructions for maintenance, use and repair.

204.9-5 Retail of noncomplying compressors.

Authority: (a) 42 U.S.C. 6927; (b) 42 U.S.C. 6928.

§ 204.9—(Amended) 204.9 is removed.

In § 204.9, paragraphs (a) (3) is removed.

In § 204.9, paragraph (a) is revised to read as follows:

§ 204.9—(Amended) 204.9 is removed.

§ 204.9—(Amended) 204.9 is removed.

(1) In § 204.9, paragraph (a), the last sentence is revised to read as follows:

(1) "Tests conducted by manufacturers under approved alternate emission standard compliance Selective Enforcement Auditing or Testing by the Administrator must be conducted and the measurement procedures that must be used to measure the sound level and... to calculate the average sound level of portable air compressors on which the test is conducted.

(2) In § 204.9, paragraph (b), the last sentence is revised to read as follows:

...in accordance with the requirements of Section 204.9-5.

§ 204.9-10 Requirements.

§ 204.9-11 (Amended) 204.9-1 is revised to read as follows:

(1) Prior to distribution in commerce, compressors of a specific configuration must verify such configurations in accordance with this subject.

§ 204.9-11 (Amended) 204.9-1 is removed and reserved.

204.9-10, paragraph (b) is revised to read as follows:

(b) The requirements for purposes of Testing by the Administrator and Selective Enforcement Auditing consist of...
Paragraphs 23 through 47 are not visible in the image.
Medium and Heavy Trucks

PART 205—TRANSPORTATION
SOUND-ABSORBING EMISSION CONTROLS

1. The table of contents for Part 205,
Subparts A and B, are revised to read as
follows:

Support A—General Provisions

2. Definitions.

3.2 Vehicle noise emission standards.

4. Test procedures.

5. Low-speed sound emission test
procedures.

6. Sound data acquisition system.

7. Requirements.

8. General requirements.

9. Compliance with standards.


11. Labeling.

12. Adhesive.

Testing by the administration.

13. Selective enforcement auditing,
requirements.

14. Test request.

15. Test vehicle sample selection.


17. Test procedures.

18. Reporting of the test results.

19. Acceptance and rejection of
scores.

20. Acceptance and rejection of batch
scores.

21. Contingent testing.

22. Probation on distribution in
compliance manufacturer's remedy.

23. Use requirements.

24. Warrenty.

25. Maintenance.

26. Instruction for maintenance, use,
and repair.

27. Retail of noncomplying
vehicles.

Appendix A:

1. Authority

2. Statutes and regulations.

3. [Reserved]

2. [Reserved]

3. [Reserved]

4. [Reserved]

5. [Reserved]

6. [Reserved]

7. [Reserved]

8. [Reserved]

9. [Reserved]

10. [Reserved]

11. [Reserved]

12. [Reserved]

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Appendix A:

1. Authority

2. Statutes and regulations.

3. [Reserved]

4. [Reserved]

5. [Reserved]

6. [Reserved]

7. [Reserved]

8. [Reserved]

9. [Reserved]

10. [Reserved]

11. [Reserved]

12. [Reserved]

13. [Reserved]

14. [Reserved]

15. [Reserved]

16. [Reserved]

17. [Reserved]

18. [Reserved]

19. [Reserved]

20. [Reserved]

21. [Reserved]

22. [Reserved]

23. [Reserved]

24. [Reserved]

25. [Reserved]

26. [Reserved]

27. [Reserved]
§ 208.58 National security exemptions.
(a) A new product which is produced to conform with specifications developed by a national security agency, and to which is added or marked on the outside of the container and on the product itself, shall be exempt from the requirements of section 230.51, 230.52, 230.53, and 230.59 of the Act.
(b) No request for national security exemption is required.

(c) For purposes of section 230.51 of the Act, any national security exemption shall be valid unless otherwise specified in the Act.

Any manufacturer or person subject to the requirements of section 230.51 of the Act with regard to any product originally intended for use by a national security agency, but distributed in commerce or for use in any State may be excluded from the application of section 230.51 of the Act with respect to such product.

(1) Had no knowledge of such product being distributed in commerce for use in any State.

(2) Made reasonable effort to assure that such products would not be distributed in commerce for use in any State.

§ 208.59 (Reassigned as §208.58-1)

15. Section 208.5-4 is redesignated as §208.5-3.

§ 208.5-5 (Removed)

14. Section 208.5-4 is removed.

§ 208.5-7 (Removed)

13. Section 208.5-4 is removed.

§ 208.61 (Amended)

16. In §208.61, paragraph (a)(2)(C) is removed and reserved.

17. In §208.61, paragraphs (a)(2)(A) and (B) are revised to read as follows:

"Test vehicle" means a vehicle selected and used to demonstrate compliance with the applicable emission standards.

§ 208.62 (Removed)

12. Section 208.61 is removed.

10. Section 208.64 is revised to read as follows:

§ 208.64 Test procedures.

The procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

§ 208.65 Test procedures.

(a) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

(b) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

(c) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

(d) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

(e) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

(f) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

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(k) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

(l) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

(m) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.

(n) The test procedures described in this section shall be used to test products and demonstrate that the products conform to the applicable emission standards.
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§ 205.27-2 Test vehicle preparation.
(a) Prior to the official test, the test vehicle selected in accordance with § 205.27-2 shall be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustment, modification or test is part of the manufacturer’s procedure, manufacturing and assembly process or procedures and are documented in the manufacturer’s internal vehicle assembly and test records. Such records or any list of such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustments, modifications, and/or tests normally performed at the point of sale by the manufacturer to prepare the vehicle for delivery to a dealer or customer. Such equipment or fixtures shall have no effect on the noise emissions of the vehicle, as determined by measurement methodology in use at the time of vehicle manufacture (i.e., failure to start, missing cylinder, etc.) the manufacturer may perform the maintenance that is necessary to enable the vehicle to operate in a normal manner.
(b) On quality control, testing, assembly or selective procedure shall be used on any vehicle or any portion thereof, including parts and subassemblies, that will 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.

§ 205.27-3 Test noise levels.
(a) In § 205.27-3, paragraphs (b), (c), (d) and (e) are removed. 
(b) In § 205.27-3, paragraph (a) is revised and redesignated as paragraph (b) and (c), respectively; paragraph (c) is redesignated as paragraph (d). The amended portions read as follows:

§ 205.27-3 Test noise levels.
(a) The manufacturer shall prepare a new category or configuration to his product line if he shall proceed in accordance with § 205.27-3.
(b) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have an uncontrolled sound pressure level that a previously verified configuration within the same category—
(c) The configuration shall be considered verified.

§ 205.27-4 Test noise levels.
(a) The vehicle manufacturer shall include the owner’s manual or in other information supplied to the ultimate purchaser the following statement:


g. Noise Emissions Warranties.
The manufacturer warrants to the first person who possesses this vehicle for purposes other than resale and to any subsequent purchaser that the vehicle was designed, built and equipped to conform at the time of sale to such first purchaser with all applicable U.S. EPA noise control regulations.

This warranty is not limited to any particular part, component or system of the vehicle. Defects in the design, assembly, or use of any part, component or system of the vehicle which, at the time of sale to such first purchaser, were not reasonable levels to exceed Federal standards are covered by this warranty for the life of the vehicle.

§ 205.27-5Tampering.
(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 ineffective 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 ineffective by any person, other than for purposes of maintenance, repair, or replacement, of any 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 whilst it is in use or (3) the use of the vehicle after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement shall be printed on the rear of the vehicle or in another conspicuous place.

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

(d) Any act included in the fleet prepared pursuant to paragraph (c) of this section is presumed to constitute tampering however if in any case it is shown that a granted act has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle the Act may be canceled.

§221.110-5 Product noise labeling.

1. The table of contents for Part 221, subpart B, is revised to read as follows:


3. A new product must be labeled to be used solely for research, investigation, and testing. As such, it is illegal to sell or distribute such products.

4. §221.110-5 Testing.

5. (i) For purposes of section 11(d) of the Act any test performed shall be void as void with respect to each new product, original or intended for research, investigations, studies, demonstrations, or testing, but distributed in commerce for other uses.

6. Section 221.110-5 is revised to read as follows:

7. §221.110-5 National security exemptions.

8. (a) Any act which is intended to conform to specifications developed by national security agencies, and so labeled on the outside of the container, shall be exempt from the provisions of the Act.

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

10. Section 221.110-5 is revised to read as follows:

11. §221.110-5 Designation.

12. The table of contents for Part 221, subpart B, is revised to read as follows:


14. §221.110-5 Testing.

15. (a) Product noise labeling.

16. §221.110-5 National security exemptions.

17. (a) A new product shall be marked with the label as required.

18. (b) A new product shall be marked with the label as required.

19. (c) A new product shall be marked with the label as required.

20. (d) A new product shall be marked with the label as required.

21. §221.110-5 Product noise labeling.

22. (a) A new product shall be marked with the label as required.

23. (b) A new product shall be marked with the label as required.

24. (c) A new product shall be marked with the label as required.

25. (d) A new product shall be marked with the label as required.

26. §221.110-5 National security exemptions.

27. (a) A new product shall be marked with the label as required.

28. (b) A new product shall be marked with the label as required.

29. (c) A new product shall be marked with the label as required.

30. (d) A new product shall be marked with the label as required.

31. §221.110-5 Testing.

32. (a) A new product shall be marked with the label as required.

33. (b) A new product shall be marked with the label as required.

34. (c) A new product shall be marked with the label as required.

35. (d) A new product shall be marked with the label as required.

36. §221.110-5 National security exemptions.

37. (a) A new product shall be marked with the label as required.

38. (b) A new product shall be marked with the label as required.

39. (c) A new product shall be marked with the label as required.

40. (d) A new product shall be marked with the label as required.

41. §221.110-5 Testing.

42. (a) A new product shall be marked with the label as required.

43. (b) A new product shall be marked with the label as required.

44. (c) A new product shall be marked with the label as required.

45. (d) A new product shall be marked with the label as required.
§ 211.210-2. Labeling requirements.

12. In § 211.210-2, paragraph (a)(1), in
13. revised text as follows:
(a)(1) A manufacturer responsible for labeling must satisfy the requirements of this subpart for a category of hearing protectors before distributing those
14. category of hearing protectors in commerce.

15. 2. In § 211.210-2, paragraph (a)(2) is
16. revised text as follows:
(a)(2) A manufacturer may apply to the Administrator for an extension of time
to comply with the labeling requirements for a category of protectors before he distributes any
protection in commerce. The Administrator may grant the manufacturer an extension of up to 30
days from the date of distribution. The manufacturer must provide reasonable assurance that the protectors equal or exceed their mean attenuation values, and that labeling requirements will be satisfied before the extension expires. Requests for extension should go to the
Administrator, U.S. Environmental Protection Agency, Washington, D.C.
20460. The Administrator must respond to a request within 2 business days. Responses may be either written or oral.

17. 3. In § 211.210-2, paragraph (a)(3) is
18. revised text as follows:
(a)(3) A manufacturer, receiving hearing protectors through the chain of distribution that were labeled by a
19. previous manufacturer may use the previous manufacturer's data when
20. labeling the protectors for ultimate sale or use. It is responsible for the accuracy of the information on the label. The manufacturer may elect to retain the
21. protectors.

22. 4. In § 211.210-2, paragraph (b) is
23. revised text as follows:
(b) Labeling requirements to
24. each hearing protector category by
25. a manufacturer's product line consists of:

1. Testing hearing protectors according to § 211.210 and the hearing protectors must have been assembled by the
2. manufacturer's normal production process and must have been tested for distribution in commerce.

2. 5. In § 211.210-2, paragraph (d) is
26. removed.

§ 211.210-3 through 211.210-7

[Reserved]

27. Section 211.210-3 through 211.210-7 are removed.
28. Section 211.212 is revised to read as follows:
29. Section 211.212 Compliance with labeling requirements.

(a) All hearing protective devices
30. manufactured and the efficacies of noise
31. reduction provided by those devices,
32. shall be labeled in compliance with
33. the labeling requirements of this section, and meeting the
34. applicability requirements of § 211.207, shall be labeled in accordance with this
35. subpart, and must comply with the
36. labeled values of mean attenuation.

(b) A manufacturer must test
37. each product separately and take into
38. account both product variability and test
39. variability test variability when labeling his
40. devices in order to meet the labeling
41. requirements of paragraph (a) of this
42. section. A specific category is
43. considered for test variability purposes as the tested one-third octave bands as
44. equal to or greater than the labeled
45. value or mean attenuation value stated in the supporting information required by
46. § 211.204.

The attenuation value must be
determined according to the test
procedures of § 211.204. The Noise
Reduction Rating for the label must be
calculated using the labeled values of
mean attenuation that will be included in the supporting information required by
§ 211.204.

§ 211.210-4. [Reserved]

21. § 211.210-4 is removed.

22. § 211.212-3 Test hearing protector preparation.

(a) The manufacturer must select the test
23. hearing protector according to § 211.212-2
24. before the official test, and must
25. comply with the test protector
26. preparation requirements described in
27. this paragraph.

(b) The hearing protector selected
28. according to § 211.212-4 must be set by
29. the manufacturer in the position and
30. orientation that is part of the manufacturer's
31. prescribed manufacturing and
32. distribution process.

(b) Quality controls, testing, assembly
33. or selection procedures must not be
34. used on the complete protector or any
35. portion of the protector, including parts
36. that will not normally be used during
37. production and assembly of all other
38. protectors of that category to be
39. distributed in commerce.

20. 24. In § 211.212-3, paragraph (e) is
41. revised text as follows:
§ 211.212-3. Determination of compliance.
(a) A category will be in compliance
42. with these requirements if the results of the test conducted under the test request
43. show that:

1. (1) The mean attenuation value, at each one-third octave band center
44. frequency as determined from the
45. Compliance Audit Test values plus 3
46. dBA is equal to or greater than the
47. mean attenuation value at the same one-
48. third octave band stated in the
49. Supporting Information required by
50. § 211.204; and

2. (2) The Noise Reduction Rating, when
51. calculated from the mean attenuation
52. values determined by Compliance Audit
53. testing equals or exceeds the Noise
54. Reduction Rating as stated on the label.
55. required by § 211.204.

Appendix A (Removed)
26. Appendix A is removed.

Appendix B (Revised as Appendix A)
28. Appendix B is redesignated Appendix A.

Compactors

PART 226—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

1. Table of contents for Part 226, Subpart F is revised to read as follows:

Subpart F—Truck-Mounted Solid Waste

2. Compatibility.

1. 204.200 Applicability.
2. 204.201 Definition.
3. 204.202 Noise emission standards.
4. 204.204 Test procedures.
5. 204.206 Type certification.
6. 204.207 Reporting.
7. 204.223 Requirements.
8. 204.243 Compliance with standards.
9. 204.253 Configuration identification.
10. 204.255 Labeling.
11. 204.261 Testing by the administration:
12. 204.263 Testing by the manufacturer:
13. 204.265 Selective enforcement auditing.
14. 204.266 Classifications of non-compliance.
15. 204.268 Noise requirements.
16. 204.269 Noise standards.
17. 204.2610 Instructions for maintenance, use
18. and repair.
19. 204.2611 Level degradation factor (NLDF) and retention of stability data.
20. 204.2629 Recall of non-complying
21. equipment.

Appendix I—Sample Tables.

§ 203.203 [Reserved];

2. In § 203.203, paragraph (a)(3), it is removed and reserved.

3. In § 203.203, paragraph (f)(5), it is revised as follows:

"(a) "Test compressor" means a compressor in a test sample.

4. In § 203.203, paragraph (g), the second sentence is revised to read as follows:

"§ 203.204 Notes emission standards.

(a) \text{* * * * * At the time of selective enforcement auditing (SEA) testing, prescribed in § 203.204, manufacturer mounting solid waste compactors must comply with the standards set forth in paragraph (a) of this section minus the noise level degradation factor (NLDF) developed in accordance with § 203.204-1.

(b) The requirements for purposes of Testing by the Administrator and Selective Enforcement Auditing are provided in this section and regard to each compressor configuration shall consist of:

(1) Accuracy in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 and (2) Compliance of the test compressor with the noise level such that the manufacturer must meet the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(c) [Reserved]

(d) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(e) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(f) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(g) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(h) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(i) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(j) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(k) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(l) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(m) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(n) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(o) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(p) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(q) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(r) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(s) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(t) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(u) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(v) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(w) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(x) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(y) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

(z) Testing in accordance with § 203.204-1 of a compressor selected in accordance with § 203.204-1 of this Subpart and that noise level does not exceed the applicable standards, where the noise level of the compressor does not exceed the applicable standards.

\text{(1) of this section, all those configurations within a category are considered to be represented by the tested compressor and therefore, considered in the final compliance conclusion.}

\text{(2) If there has been compliance with the requirements of paragraph (c)(3) is revised to read as follows:}

\text{[Reserved]}

\text{(3) If there has been compliance with all other requirements of paragraph (c)(3), except that the manufacturer tests a configuration which does not have the highest noise level in a category (as identified in (c)(3)), all those configurations in the category which have noise levels greater than that of the tested compressor are disregarded for purposes of testing by the Administrator and Selective Enforcement Auditing. In the event no configuration in the category have a higher noise level than that of the compressor configuration tested, the manufacturer may elect to verify only part of his product line using representative testing pursuant to paragraph (c)(2) of this section.}

\text{(4) A manufacturer may elect to verify only part of his product line using representative testing pursuant to paragraph (c)(2) of this section.}

10. In § 203.205-2, paragraph (c)(2) and (3) are revised to read as follows:

11. In § 203.205-2, paragraph (c)(3) is revised to read as follows:

12. In § 203.205-2, paragraph (c)(4) is removed.
control testing and assembly procedures
on like products during production. If the
resulting testing is not biased by this
procedure, the manufacturer may perform
adjustments, preparation, modifications
of the compactor in a way that is
acceptable to the manufacturer. To prepare
the compactor for delivery to a dealer or
customer, the manufacturer shall, in the
event of a compactor malfunction (e.g., failure to start) the
manufacturer may perform the
maintenance that is necessary to enable
the compactor to operate in a normal
capacity
(d) No quality control, quality
assurance testing, assembly or selection
procedures may be used on the test
compactor or any portion thereof,
including parts and subassemblies, that
will be normally used during the
production and assembly of all other
components of the category which will
be distributed in commerce, unless such
procedures are required or permitted under this subpart, or are approved in
advance by the Administrator.

24. In §225.207-2, the sentence in
paragraph (c) is revised to read as follows:
§225.207-2 Test sample preparation.
(c) The compactors of the category
configuration or subgroup selected for
testing shall have been assembled by
the manufacturer for distribution in
customer using the manufacturer's
general production process.

25. In §225.207-2, paragraph (c) is
revised to read as follows:

§225.207-2 Test sample preparation.
(a) Before the official test, the test
compactor selected must be
prepared, tested, modified, adjusted, or
maintained in any manner, and such
adjustments, preparation, modifications,
or tests are part of the manufacturer's
inspection procedures, as are all such
adjustments or tests are required
performed under this subpart of this
discrimination. For purposes of this
paragraph, inspection procedures include quality
standards and procedures in the manufacturer's
normal assembly and
inspection procedures, as are all such
adjustments or tests are required
determined under this subpart of this
discrimination. For purposes of this
paragraph, inspection procedures include quality
production and assembly. For purposes of this
section, inspection procedures include quality
standards and procedures in the manufacturer's
normal assembly and
inspection procedures, as are all such
adjustments or tests are required

26. In §225.207-2, paragraphs (a) and (d) are
revised to read as follows:

§225.207-2 Reporting of the test results.
(a) The Administrator, U.S. Environmental
Protection Agency, Washington, D.C. 20460,
shall, in §225.207-2, paragraph (a)(1), revised to read as follows:

(a) Submission to the Administrator which identifies the
reason for the non-compliance of a particular compactors described in the problem
and describes the proposed quality control
or quality assurance remediation to be
taken by the manufacturer to correct the
problem.

27. In §225.207-2, paragraph (a) is
revised to read as follows:

§225.207-2 Prearrangement of the test results.
(a) The Administrator, U.S. Environmental
Protection Agency, Washington, D.C. 20460,
shall, in §225.207-2, paragraph (a)(1), revised to read as follows:

(a) Submission to the Administrator which identifies the
reason for the non-compliance of a particular compactors described in the problem
and describes the proposed quality control
or quality assurance remediation to be
taken by the manufacturer to correct the
problem.
provide the maintenance instructions and the book developed by the
manufacturer for that particular make or model to be used by the
Service Provider.

PART 225-TRANSPORTATION EQUIPMENT NOISE

Subpart D-Motorcycles

Section 225.127-1: Remedial action.

Appendix 1: Motorcycle Noise-Emission Test Procedure.

Appendix 2: Sampling Table.

Subsection (c)(1): Prior to distribution in commerce of vehicles of a specific
configuration, the manufacturer of such vehicles must verify such
vehicles meet the requirements of this subpart.

Subsection (c)(2): In §225.117-2, paragraph (a)(3) is
removed and redrafted as follows:

§225.117-2: Test samples.

Paragraph (a)(3): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Paragraph (b): The requirements for purposes of testing by the Administrator and
selective enforcement auditing are in accordance with §225.180.

Subsection (d)(1): Testing in accordance with
§225.117-4 of a vehicle is required to pass in accordance with §225.180.

Subsection (d)(3): Testing in accordance with
§225.117-4 of a vehicle selected in accordance with §225.180 is
required to pass in accordance with §225.180.

Subsection (e): In §225.117-2, paragraph (b) is
revised to read as follows:

§225.117-2: Test samples.

Paragraph (b): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (f): After approval by the
Administrator, testing conducted by the manufacturer using alternative test
procedures will be accepted by the Administrator for all purposes including,
but not limited to, selective enforcement activities.

Subsection (g): Section 225.117-7 is revised as
follows:

§225.117-7: Test samples.

Paragraph (a): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (h): In addition to those specified in
§225.144, "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (i): Testing in accordance with
§225.117-4 of a vehicle selected in accordance with §225.180 is
required to pass in accordance with §225.180.

Subsection (j): In §225.117-2, paragraph (b) is
revised to read as follows:

§225.117-2: Test samples.

Paragraph (b): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (k): After approval by the
Administrator, testing conducted by the manufacturer using alternative test
procedures will be accepted by the Administrator for all purposes including,
but not limited to, selective enforcement activities.

Subsection (l): Section 225.117-7 is revised as
follows:

§225.117-7: Test samples.

Paragraph (a): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (m): In addition to those specified in
§225.144, "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (n): Testing in accordance with
§225.117-4 of a vehicle selected in accordance with §225.180 is
required to pass in accordance with §225.180.

Subsection (o): In §225.117-2, paragraph (b) is
revised to read as follows:

§225.117-2: Test samples.

Paragraph (b): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (p): After approval by the
Administrator, testing conducted by the manufacturer using alternative test
procedures will be accepted by the Administrator for all purposes including,
but not limited to, selective enforcement activities.

Subsection (q): Section 225.117-7 is revised as
follows:

§225.117-7: Test samples.

Paragraph (a): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (r): In addition to those specified in
§225.144, "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (s): Testing in accordance with
§225.117-4 of a vehicle selected in accordance with §225.180 is
required to pass in accordance with §225.180.

Subsection (t): In §225.117-2, paragraph (b) is
revised to read as follows:

§225.117-2: Test samples.

Paragraph (b): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (u): After approval by the
Administrator, testing conducted by the manufacturer using alternative test
procedures will be accepted by the Administrator for all purposes including,
but not limited to, selective enforcement activities.

Subsection (v): Section 225.117-7 is revised as
follows:

§225.117-7: Test samples.

Paragraph (a): "Test vehicle" means a vehicle in
addition to those specified in §225.144.

Subsection (w): In addition to those specified in
§225.144, "Test vehicle" means a vehicle in
addition to those specified in §225.144.
tested vehicle, however, a manufacturer may elect for purposes of testing by the Administration and Selective Enforcement Auditing to use representative testing pursuant to paragraphs for all or part of his production line.  

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

In § 205.160-1, paragraph (e)(1) and (2) are revised as follows:  

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

(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.  

§ 205.170-6 through § 205.170-12 (Removed).  

12. Sections 205.174 through 205.174-10 are removed.  

125.1291 (Amended)  

12. In § 205.126, paragraph (a)(3) is revised as follows:  

(a)(3) The manufacturer of any vehicle subject to this subpart shall make, at the time of manufacture, a label of the type specified in paragraph (a)(2)(i), (ii), and (iii) of this section, to all such vehicles to be distributed in commerce.  

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

§ 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 tests, the test vehicle must not be prepared, tested, modified, adjusted, or maintained in any manner unless such preparation, test, 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, as required or permitted under this subpart, or are approved in advance by the Administration. 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 such procedures. In the case of imported products, the manufacturer may perform adjustments, preparations, modifications, or maintenance performed by 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 if such equipment or fixtures have no effect on the noise emissions of the vehicle, as determined by the measurement methodology.  

(c) 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 SSA report.  

(d) 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 carried out 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 Administration.  

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

§ 205.160-3 is removed and reserved.  

24. Section 205.160-3 is removed and reserved.  

§ 205.160-4.  

25. In § 205.160-4, paragraph (b), the first sentence is removed.  

26. § 205.160-4, paragraph (a)(1) is revised as follows:  

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

§ 205.160-6.  

27. Section 205.160-6 is removed.  

§ 205.162-1.  

22. Section 205.162-1 is removed.  

23. In § 205.162-3, paragraphs (b) and (c), respectively, paragraphs (b)(1) and (c) are removed; newly redesignated paragraphs (b) and (c), respectively, paragraphs (a) and (d), as paragraphs (a) and (d), respectively.  

24. In § 205.162-7, paragraphs (d), (e), (g), (h), and (i) are removed; and paragraph (f)(1) is redesignated paragraph (g)(1).  

25. In § 205.162-8, paragraphs (a) and (b) are removed; and paragraphs (a) and (b), respectively, paragraphs (a) and (b), as paragraphs (a) and (b), respectively.  

26. In § 205.162-9, paragraphs (a) and (b) are removed; and paragraphs (a) and (b), respectively, paragraphs (a) and (b), as paragraphs (a) and (b), respectively.  

27. Section 205.162-9 is removed.
(b) The manufacturer shall include in the owner's manual the following information:

1. The statement:

Transporting With Noise Control Systems Prohibited.

Federal law prohibits the following acts occurring, the owner:

1. Removal or rendering inoperable by any person other than the purposes of maintenance, repair, or replacement of any device or element of design incorporated into a 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 removal of a vehicle after such device or element of design has been removed or rendered inoperable 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:

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 so that the vehicle still meets the noise emission standard of § 233.157, the act will not constitute tampering:

§ 233.159-9 (Amended)
30. In § 233.159-9, paragraphs (c), (d), and (f) are removed.

§ 233.160-2 (Removed)
30. In § 233.160-2, paragraphs (c), (d), and (f) are removed.

30. Section 233.160-4 is removed.

§ 233.160-6 (Amended)
30. In § 233.160-6, paragraph (c) is removed and reserved.
33. In § 233.160, paragraph (a) is removed and reserved.

(2) Test exhaust system means an exhaust system in Selective Enhancement Audit test sample.

30. Section 233.160 is entitled to read as follows:

§ 233.160 Requirements.

30. Section 233.160-4 is revised to read as follows:

§ 233.160-4 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, § 203.45 —

(1) Must label each exhaust system in accordance with the applicable noise emission standard established in § 233.150 of this regulation which was installed on any replacement system for which it has been designed and marketed.

(2) Must only manufacture exhaust systems which conform to the applicable noise emission standard established in § 233.150 of this regulation when installed on any replacement system for which it has been designed and marketed.

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

§ 233.169 (Amended)
30. In § 233.169, paragraph (a) is revised to read as follows:

(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 each exhaust system or exhaust system component to be distributed in commerce.

30. In § 233.169-2 through 233.169-10 are removed.

§ 233.170 (Amended)
30. In § 233.170, paragraph (f) is removed.

30. In § 233.170, paragraphs (c)(1) to (c)(4) are removed and reserved.

30. In § 233.170, paragraph (c)(5) is revised to read as follows:

(5) In addition to any exhaust systems included in paragraph (c)(1), (c)(2), or (c)(3) 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.  
41. In § 203.171-2, the section title and paragraph (a) are revised to read as follows:  
§ 203.171-2 Test exhaust system sections and preparations.  
(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, reassembled, or maintained in any manner unless such preparation, test, modification, adjustment 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 Administration.  
(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 procedure are required or permitted under this subpart or are approved in advance by the Administration.  
§ 203.171-5 Testing procedures.  
(a) * * *  
§ 203.171-5, paragraph (b), the first sentence is revised to read as follows:  
§ 203.171-5 Testing procedures.  
(a) * * *  
(b) No maintenance may be performed on the test exhaust system except as provided by § 203.171-2.  
44. In § 203.171-10, paragraph (a)[1] is revised to read as follows:  
§ 203.171-10 Prohibition on distribution in commerce manufacturer's remedy.  
(a) * * *  
(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.  
§ 203.171-11 Warranty.  
(a) The exhaust system manufacturer shall include in the information supplied to the ultimate purchaser pursuant to section 203.173-1, the following statement:  
Noise Emission Warranty  
The manufacturer warrants that this exhaust system, at time of sale, meets all applicable U.S. EPA, 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 directed to the manufacturer of the exhaust system (manufacturer shall fill in this blank with his name, address and telephone number).  
46. In § 203.173-2, the introductory text is revised to read as follows:  
§ 203.173-2 Tampering.  
The manufacturer must include the following statement pursuant to § 203.173-4 with each product of that category the manufacturer distributes into commerce.  
47. In § 203.173-5, the introductory text is revised to read as follows:  
§ 203.173-5 Warning statement.  
The manufacturer must include the following statement pursuant to § 203.173-4 with each product of that category the manufacturer distributes into commerce.