

TMSWC

ONAC 02-82 #3

N-96-01
II-A-1026**SUPPLEMENTARY INFORMATION:****I. Discussion**

On October 1, 1979, EPA promulgated 40 CFR Part 205, Subpart F, Truck-Mounted Solid Waste Compactors: Noise Emission Standards (44 FR 56524). This regulation requires that, beginning October 1, 1980, each newly manufactured truck-mounted solid waste compactor must not produce a logarithmic (energy) average noise level in excess of 79 decibels. The maximum allowable noise level is reduced to 78 decibels for products manufactured after July 1, 1982.

To ensure continuing benefits from this regulation, manufacturers are required to design and build each compactor so that, when properly maintained and used, its noise level will not degrade (i.e., increase) above the level of the applicable standard for a period of 2 years or 5,000 operating hours, whichever occurs first. This period of in-use compliance is called the Acoustical Assurance Period ("AAP").

Under the regulation as promulgated, manufacturers were required to establish the anticipated noise level degradation (increase in noise level) for their products during the AAP. The anticipated degradation would be taken into account when measuring the noise levels of their products to show compliance with the regulation. This anticipated noise level increase is termed the Noise Level Degradation Factor ("NLDF").

GM alleged that in promulgating the AAP and the NLDF the Administrator of EPA exceeded the authority granted to him by Congress under the Noise Control Act. GM also alleged that the Administrator had established a regulatory scheme which had no technical basis and which was not supported by cost analysis, thereby acting arbitrarily and capriciously. EPA disagrees with GM's allegations. As detailed in the Agency's response to GM, EPA believes the AAP is consistent with both the language and purposes of the Noise Control Act, and is substantiated by sufficient information.

With respect to the Noise Level Degradation Factor (NLDF), EPA has reconsidered the burdens placed upon manufacturers by the NLDF and the way in which the NLDF would apply to the trash compactor regulation. The Agency has concluded that the NLDF is not necessary in this regulation. The NLDF and related provisions are therefore being withdrawn from the regulation.

II. Supporting Documentation

Copies of GM's petition for reconsideration, and EPA's response can be obtained for review and copying

40 CFR Part 205**[FRL 1483-2]****Transportation Equipment Noise Emission Controls; Truck-Mounted Solid Waste Compactors; Technical Amendments****AGENCY:** Environmental Protection Agency.**ACTION:** Technical Amendments to final rules.

SUMMARY: On December 10, 1979, General Motors Corporation ("GM") submitted to the Administrator of the U.S. Environmental Protection Agency ("EPA") a Petition for Reconsideration of Noise Emission Standards for Truck-Mounted Solid Waste Compactors, 40 CFR § 205.200 *et seq.*, (44 FR 56524, Oct. 1, 1979) ("the regulation"). In its petition, GM specifically requested reconsideration and deletion of all provisions related to the Acoustical Assurance Period ("AAP") and the Noise Level Degradation Factor ("NLDF").

The Administrator of EPA responded to General Motors on March 10, 1980. That response detailed the Agency's decision to retain the AAP. However, after careful reconsideration, the Agency decided to revoke from the regulation all provisions related to the NLDF. This Federal Register notice implements that decision.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Martha G. Prothro, Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460 (703) 557-7470.

from: Mr. Charles Mooney, U.S. Environmental Protection Agency, EPA Public Information Center (PM-215) Room 2194 D, 401 M Street, SW., Washington, D.C. 20460 Phone: (202) 755-0717.

The amendments made today are critical to the compliance activities of manufacturers of truck-mounted solid waste compactors, including activities which must be completed prior to the October 1, 1980, effective date of the regulation. Moreover, the amendments only relieve certain restrictions in the regulation, and do not change the manufacturer's substantive responsibility to design, build, and equip the product so that it will comply with the applicable noise standard throughout the AAP, if properly used and maintained. If the manufacturer expects the noise level of the product to increase during the AAP, he will have to account for that degradation in the product's design. The amendments only relieve the manufacturer's duty to document to the Agency the amount of degradation that is expected to occur during the AAP. For these reasons, the Agency finds that notice and opportunity to comment on the amendments prior to final rulemaking would be impracticable and unnecessary.

EPA has determined that this action is not a "significant" regulation, and therefore does not require a Regulatory Analysis in accordance with Executive Order 12044.

These amendments complete EPA's action on GM's petition for reconsideration of the regulation, and are promulgated under the authority of 42 U.S.C. 4905.

Dated: May 2, 1980.

Douglas M. Costle,
Administrator.

40 CFR Part 205, Subpart F is amended as follows:

1. The table of sections is amended by deleting "205.200-4 Noise Level Degradation Factor (NLDF) and retention of durability data."

§ 205.201 (Amended)

2. Section 205.201 is amended by deleting paragraph (a)(10) and by renumbering paragraphs (a)(11)-(17) as (a)(10)-(16), respectively.

§ 205.202 (Amended)

3. Section 205.202(b) is amended by deleting from the last sentence the words "minus the noise level degradation factor (NLDF) developed in accordance with § 205.200-4."

4. Section 205.205-2 is amended by revising paragraphs (b)(2) and (c)(1)(i), (ii) and (iv) to read as follows:

§ 205.205-2 Production verification: compliance with standards.

(b)
(2) Compliance of the test compactor with a noise level which does not exceed the applicable standards, when tested in accordance with § 205.204; and

(c)
(1)
(ii) Identifying the configuration within each category which emits the highest noise level (in dB) based on best technical judgment, emission test data or both;

(iv) Demonstrating compliance by showing that the measured noise level does not exceed the applicable standard;

5. Section 205.205-4 is amended by revising the introductory text of paragraph (b)(3) and the second sentence of the text that follows paragraph (b)(3)(iv) to read as follows:

§ 205.205-4 Production verification report: required data.

(b)
(3) A description of all compactor configurations, as determined in accordance with § 205.205-3, to be distributed in commerce by the manufacturer, including for each configuration a list of the following:

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. If a manufacturer elects to production-verify pursuant to § 205.205-2(c), the configuration within each category which is estimated to have the highest A-weighted noise level must be identified.

6. Section 205.207-6 is amended by revising paragraph (a) to read as follows:

§ 205.207-6 Passing or failing under SEA.

(a) A failing compactor is one whose measured noise level is in excess of the noise level equal to the applicable noise emission standard set forth in § 205.202 for the category or configuration being tested.

§ 205.200-4 (Revoked)

7. Section 205.200-4, Noise Level Degradation Factor (NLDF) and retention of durability data, is revoked in full.

8. In the appendix to Part 205, Table I is amended by deleting from IV, *Noise Level Data* the columns entitled "NLDF" and "Calculated Resultant Noise Level." The revised Table I is set forth below.

(Secs. 6 and 13, Pub. L. 92-574, 86 Stat. 1237, 1244 (42 U.S.C. 4906, 4912))

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APPENDIX I -- SAMPLE TABLES

TABLE I

NOISE EMISSION TEST DATA SHEET
FOR TRUCK-MOUNTED SOLID WASTE COMPACTORS

Test No. _____

I. Machine Characteristics

Body Manufacturer: _____ Model No. _____ Serial No. _____
 Truck Manufacturer: _____ Model No. _____ Serial No. _____
 Rate H.P. _____ at: _____ RPM; Maximum Engine Speed During Compaction _____ RPM

II. Test Conditions

Manufacturer's Test Site Identification and Location: _____
 Measurement Surface Composition: _____
 Ambient Sound Levels (a) Beginning of Test; _____ dBA
 (b) End of Test; _____ dBA

III. Instrumentation

Microphone Manufacturer: _____ Model No. _____ Serial No. _____
 Sound Level Meter Manufacturer: _____ Model No. _____ Serial No. _____
 Acoustical Calibrator Manufacturer: _____ Model No. _____ Serial No. _____
 Other: _____ Model No. _____ Serial No. _____

IV. Noise Level Data

Noise Levels (dBA)

Machine Reference Surface				Calculated Average Level
Front	L.H. Side	Rear	R.H. Side	

V. Atmospheric Data

Temperature _____ °C _____ (°F)
 Wind Speed _____ km/hr.
 Barometric pressure _____ mm Hg

VI. Test Personnel and Witnesses

Tested by: _____ Date: _____
 Reported by: _____ Date: _____
 Checked by: _____ Date: _____