

Dated: August 7, 1981.
Lester A. Sutton,
Regional Administrator, Region I.
(FR Doc. 81-23742 Filed 8-13-81; 8:43 am)
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40 CFR Parts 204, 205, and 211
(EN-FRL 1904-6)

Noise Emission Standards for Portable Air Compressors, Medium and Heavy Trucks, Motorcycles and Motorcycle Replacement Exhaust Systems, Truck Mounted Solid Waste Compactors, and Noise Labeling Requirements for Hearing Protectors; Notice of Proposed Rulemaking.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is proposing revocation of the reporting and recordkeeping requirements of the following regulations: Noise Emission Standards for Construction Equipment, General Provisions; Noise Emission Standards for Portable Air Compressors; Transportation Equipment Noise Emission Controls, General Provisions; Noise Emission Standards for Medium and Heavy Trucks; Noise Emission Standards for Motorcycles and Motorcycle Replacement Exhaust Systems; Noise Emission Standards for Truck Mounted Solid Waste Compactors; Product Noise Labeling, General Provisions; and Noise Labeling Requirements for Hearing Protectors.

The Agency proposes to revoke the reporting and recordkeeping requirements of these regulations. The Agency in a final rule published in today's Federal Register is immediately suspending enforcement of these reporting and recordkeeping requirements and will not enforce them prior to final action on this proposal.

DATE: Comments on this proposed action must be received on or before September 14, 1981. Submit comments in writing, with two copies.

ADDRESS: Comments should be sent to: Mr. Timothy J. Dwyer, Acting Director, Noise Enforcement Division (EN-330), U.S. Environmental Protection Agency, Docket No. NED-81-1, Washington, D.C. 20460, (202) 420-4793.

All information received, which is not identified as company proprietary in nature will be open to public inspection and available for copying during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit,

Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Timothy J. Dwyer at (202) 420-4793.

SUPPLEMENTARY INFORMATION: On January 14, 1978, EPA promulgated a regulation (40 CFR 204.50, *et seq.*) which established noise emission standards for portable air compressors manufactured on or after January 1, 1978, (41 FR 2182). On April 13, 1978, EPA promulgated a regulation (40 CFR 205.50 *et seq.*) which established noise emission standards for medium and heavy trucks manufactured after January 1, 1978 (41 FR 15538). On December 31, 1980, EPA promulgated regulations (40 CFR 205.150 *et seq.* and 205.165 *et seq.*) establishing noise emission standards for motorcycles and motorcycle replacement exhaust systems manufactured on or after January 1, 1983 (45 FR 86894). On October 1, 1979, EPA promulgated a regulation (40 CFR 205.300 *et seq.*) establishing noise emission standards for truck mounted solid waste compactors manufactured on or after October 1, 1980 (44 FR 58528). On September 28, 1979, EPA promulgated a regulation (40 CFR 211.203 *et seq.*) establishing noise labeling requirements for hearing protectors manufactured on or after September 27, 1980 (44 FR 58130).

Each of these regulations imposes reporting and recordkeeping requirements on the manufacturers of the regulated products, including provisions that manufacturers of regulated products submit production verification reports or labeling verification reports, as appropriate, to the Director of the Noise Enforcement Division.

The President's proposed budget for Fiscal Year 1982, which was submitted to Congress on March 10, 1981, provides for no funding of the noise enforcement program in FY 1982 and indicates that the remainder of 1981 funds will be used to phase out the program by the end of the current fiscal year. Preliminary actions by Congress indicate that this portion of EPA's budget will be enacted as proposed. As the first step in this phase-out process, the Agency is proposing that the reporting and recordkeeping requirements of these regulations be revoked. The Agency is requesting that manufacturers of regulated products immediately stop submitting product verification reports and labeling verification reports to the Director of the Noise Enforcement Division. Between now and September 30, 1981, the Noise Enforcement Division staff and the remaining FY 81 funds will

be used for those activities necessary for closing the Division.

This action affects only the reporting and recordkeeping requirements of the regulations. All other provisions of the regulations promulgated under the Noise Control Act (42 U.S.C. 4901 *et seq.*) remain in effect. Regulated products remain subject, respectively, to the noise emission standards and labeling requirements of the regulations.

Furthermore, although EPA will no longer be requiring manufacturers reports regarding compliance with these regulations, Section 12 of the Noise Control Act (42 U.S.C. 4911), which provides for citizens suits to enforce noise control standards, remains in effect.

EPA has determined that this proposed rulemaking is not a major rule under Executive Order 12291, 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 of the reporting and recordkeeping burdens for the regulated industries.

This proposed rulemaking was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291.

Under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I hereby certify that this proposed action will not have a significant economic impact on a substantial number of small entities. The proposal affects only the recordkeeping and reporting requirements of the regulations; other portions of the regulations are unaffected. Moreover, this proposal will ease recordkeeping and reporting burdens for the effected manufacturers, and will have no adverse economic effects.

This action is being taken under the authority of Sections 10 and Section 13(a) of the Noise Control Act of 1972, amended by the Quiet Communities Act of 1978, 42 U.S.C. 4909 and 4912(a).

Dated: August 7, 1981.

Anne M. Gorsuch,
Administrator.

For the reasons set out in the preamble, Chapter I, Part 204 of Title 40, Code of Federal Regulations, is proposed to be amended as follows.

PART 204—NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

1. The Table of Contents for Part 204 is amended to read as follows:

A-96-01
III-A-31

Subpart A—General Provisions

- 204.5-1 Exemptions.
- 204.5-1 Testing exemption.
- 204.5-2 National security exemptions.
- 204.5-3 Export exemptions.

Subpart B—Portable Air Compressors

- 204.53 (Removed)
- 204.55-4 (Removed)
- 204.55-10 (Removed)
- 204.55-11 (Removed)
- 204.55-12 (Removed)

§ 204.4 (Amended)

2. In § 204.4, paragraph (a) is revised to read as follows:

(a) Any inspection or monitoring activities conducted under this section shall be for the purpose of determining: (1) whether test products are being selected and prepared for testing in accordance with the provisions of these regulations; and (2) whether test product testing is being conducted in accordance with these regulations.

3. In § 204.4, paragraph (b), subparagraph (i) is removed.

4. In § 204.4, paragraph (c)(1), subdivision (iii) is removed.

§ 204.5-1 (Removed)

5. Section 204.5-1 is removed.

6. Section 204.5-2 is redesignated § 204.5-1 and revised to read as follows:

§ 204.5-1 Testing exemption.

(a) A new product intended to be used solely for research, investigations, studies, demonstrations or training, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of sections 10(a)(1), (2), (3), and (4) of the Act.

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

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

§ 204.5-3 (Removed)

7. Section 204.5-3 is removed.

8. Section 204.5-4 is redesignated § 204.5-2, and is revised to read as follows:

§ 204.5-2 National security exemptions.

(a) A new product which is produced to conform with specifications

developed by a national security agency, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of sections 10(a)(1), (2), (3), and (4) of the Act.

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

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

§ 204.5-5 (Redesignated as § 204.5-3)

9. Section 204.5-5 is redesignated § 204.5-3.

§ 204.5-6 (Removed)

10. Section 204.5-6 is removed.

§ 204.5-7 (Removed)

11. Section 204.5-7 is removed.

§ 204.53 (Removed)

12. Section 204.53 is removed.

§ 204.55-1 (Amended)

13. In § 204.55-1(a) subparagraph (2) is removed and subparagraphs (3) and (4) are redesignated as (2) and (3).

§ 204.55-2 (Amended)

14. In § 204.55-2, paragraph (a)(2), subparagraphs (ii) and (iii) are removed.

15. In § 204.55-2, paragraph (a)(3) is removed.

16. In § 204.55-2, paragraphs (b)(3) and (c)(1)(v) are removed.

17. In § 204.55-2, paragraph (e)(2), the second sentence, which reads, "All modifications and test results must be reported in the production verification report," is removed.

18. In § 204.55-2, paragraph (f) is removed.

§ 204.55-4 (Removed)

19. Section 204.55-4 is removed.

§ 204.55-6 (Amended)

20. In § 204.55-6, paragraph (c) is amended by substituting a period for the colon and removing the following words after the colon: "Provided, that such maintenance is documented and reported in the final report prepared and submitted in accordance with this subpart."

§ 204.55-7 (Amended)

21. In § 204.55-7, paragraph (b), the last sentence, which reads, "Any replacement shall be reported in the production verification report, including the the reason for the replacement," is removed.

§ 204.55-9 (Amended)
 22. In § 204.55-9, paragraph (b)(2) is amended by substituting a period for the colon and removing these words which follow the colon: "Provided, that the manufacturer submits a report pursuant to § 204.55-4 with respect to such configuration."

§ 204.55-10 (Removed)

23. Section 204.55-10 is removed.

§ 204.57-3 (Removed)

24. Section 204.57-3 is removed.

§ 204.58-1 (Amended)

25. In § 204.58-1, paragraphs (b), (c), and (d) are removed.

26. In § 204.58-2, paragraph (a) is revised; paragraphs (b), (c), and (e) are removed; paragraphs (d) and (f) are redesignated paragraphs (b), (c), and (d) respectively. The amended § 204.58-2 reads as follows:

§ 204.58-2 Tampering.

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

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

- (1) The statement:
 Tampering With Noise Control System Prohibited

Federal law prohibits the following acts or the causing thereof:

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

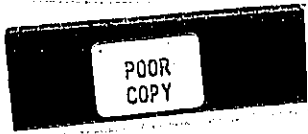
(2) The statement:

Among those acts included in the prohibition against tampering are the acts listed below.

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

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a proscribed act has been committed and it can be shown that such act resulted in no increase in the

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sound level of the compressor or that the compressor still meets the noise emission standard of § 204.52, such set will not constitute tampering.

§ 204.58-3 [Amended]

27. In § 204.58-3, paragraphs (c), (d), and (e) are removed.

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

1. The Table of Contents is amended as follows:

Subpart A—General Provisions

Sec
205.5 [Removed]
205.5-1 [Removed]
205.5-2 [Removed]
205.5-3 [Removed]

205.5-6 [Removed]
205.5-7 [Removed]

Subpart B—Medium and Heavy Trucks

205.53 [Removed]

205.55-4 [Removed]

205.55-6 [Removed]

205.57-5 [Removed]

Subpart C—Motorcycles

205.107-4 [Removed]

205.100-5 [Removed]

205.101 [Removed]

205.102-4 [Removed]

Subpart E—Motorcycle Exhaust Systems

205.100-3 [Removed]

205.171-7 [Removed]

205.172 [Removed]

205.173-5 [Removed]

Subpart F—Truck Mounted Solid Waste Compactors

205.203 [Removed]

205.205-4 [Removed]

205.207-5 [Removed]

§ 205.4 [Amended]

2. In § 205.4, paragraph (a) is revised to read as follows:

(a) Any inspection or monitoring activities conducted under this section shall be for the purpose of determining: (1) whether test products are being selected and prepared for testing in accordance with the provisions of these regulations, and (2) whether test product testing is being conducted in accordance with these regulations.

3. In § 205.4, paragraph (b), subparagraph (4) is removed.

4. In § 205.4, paragraph (c)(1), subdivision (iii) is removed.

§ 205.5-1 [Removed]

5. Section 205.5-1 is removed.

6. Section 205.5-2 is redesignated

§ 205.5-1 and revised to read as follows:

§ 205.5-1 Testing exemption.

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

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

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

§ 205.5-3 [Removed]

7. Section 205.5-3 is removed.

8. Section 205.5-4 is redesignated § 205.5-2, and is revised to read as follows:

§ 205.5-2 National security exemptions.

(a) A new product which is produced to conform with specifications developed by a national security agency, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of section 10(a) (1), (2), (3), and (4) of the Act.

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

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

§ 205.5-5 [Amended and Redesignated]

9. Section 205.5-5 is redesignated § 205.5-3 and paragraph (d) is removed.

§ 205.5-6 [Removed]

10. Section 205.5-6 is removed.

§ 205.5-7 [Removed]

11. Section 205.5-7 is removed.

§ 205.53 [Removed]

12. Section 205.53 is removed.

§ 205.55-1 [Amended]

13. In § 205.55-1, paragraph (a), subparagraph (2) is removed.

§ 205.55-2 [Amended]

14. In § 205.55-2, paragraph (a)(2), subparagraphs (ii) and (iii) are removed.

15. In § 205.55-2, paragraph (a), subparagraph (3) is removed.

16. In § 205.55-2, paragraph (b), subparagraph (3) is removed.

17. In § 205.55-2, paragraph (c), subparagraph (1)(v), is removed.

18. In § 205.55-2, paragraph (e)(2), the second sentence, which reads, "All modifications and test results must be reported in the production verification report," is removed.

19. In § 205.55-2, paragraph (f) is removed.

§ 205.55-4 [Removed]

20. Section 205.55-4 is removed.

§ 205.55-6 [Amended]

21. In § 205.55-6, paragraph (c) is amended by substituting a period for the colon and removing the following words after the colon: "Provided, that such maintenance is documented and reported in the final report prepared and submitted in accordance with this subpart."

§ 205.55-7 [Amended]

22. In § 205.55-7, paragraph (b), the last sentence, which reads, "Any replacement shall be reported in the production verification report, including the reason for the replacement," is removed.

§ 205.55-8 [Amended]

23. In § 205.55-8, paragraph (b)(2) is amended by substituting a period for the colon and removing these words which follow the colon: "Provided, that the manufacturer submits a report pursuant to § 205.55-4 with respect to such configuration."

§ 204.55-9 [Removed]

24. Section 204.55-9 is removed.

§ 205.57-5 [Removed]

25. Section 205.57-5 is removed.

§205.50-1 [Amended] Federal Rule 20. In § 205.50-1, paragraphs (b), (c), and (d) are removed; compressor or 27. In § 205.50-2, paragraph (a) is revised; paragraphs (b), (c), and (g) are removed; paragraphs (d) and (e) are revised and redesignated as paragraphs (b) and (c) respectively; paragraph (f) is redesignated paragraph (d). The amended § 205.50-2 reads as follows:

§205.50-2 Tampering.

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

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

(1) The statement:

Tampering With Noise Control System Prohibited

Federal law prohibits the following acts or the causing thereof:

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

(2) The statement:

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

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

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

§205.50-3 [Amended]

20. In § 205.50-3, paragraphs (c), (d), and (e) are removed.

§205.157-1 [Amended]

20. In § 205.157-1, paragraph (a), subparagraph (2) is removed.

30. In § 205.157-1, paragraph (d) is revised to read as follows:

(d) The manufacturer who is required to conduct product verification testing to demonstrate compliance with a

particular standard, must satisfy all other provisions of this subpart applicable to that standard.

§ 205.157-2 [Amended]

31. In § 205.157-2, paragraph (a)(2), subparagraphs (ii) and (iii) are removed.

32. In § 205.157-2, paragraph (b), subparagraph (3) is removed.

33. In § 205.157-2, paragraph (c)(1), subparagraph (v) is removed.

34. In § 205.157-2, paragraph (e), subparagraph (2) is amended by removing the second sentence.

35. In § 205.157-2, paragraph (f) is removed.

§205.157-4 [Removed]

36. Section 205.157-4 is removed.

§205.157-6 [Amended]

37. In § 205.157-6, paragraph (d), the last sentence, which reads "This maintenance must be documented and reported in the PV report on that vehicle's configuration prepared and submitted by the manufacturer," is removed.

§205.157-70 [Amended]

39. In § 205.157-7, paragraph (c), the last sentence, which reads "Any replacement must be reported in the production verification report, including the reason for the replacement" is removed.

§205.157-8 [Amended]

39. In § 205.157-8, paragraph (b), subparagraph (2) is removed.

§ 205.157-9 [Amended]

40. In § 205.157-9, paragraph (b) is removed.

§ 205.158 [Amended]

41. In § 205.158, paragraph (e) is removed.

§ 205.160-5 [Removed]

42. Section 205.160-5 is removed.

§ 205.161 [Removed]

43. Section 205.161 is removed.

§ 205.162-1 [Amended]

44. In § 205.162-1, paragraphs (b), (c), and (d) are removed.

45. In § 205.162-2, paragraph (a) is revised; paragraphs (b) and (c) are removed; paragraphs (d) and (e) are revised and redesignated paragraphs (b) and (c) respectively; paragraph (g) is removed; and paragraph (f) is redesignated paragraph (d). The amended § 205.162-2 reads as follows:

§ 205.162-2 Tampering.

(a) For each configuration of vehicles covered by this part, the manufacturer shall develop a list of acts which, in his

judgment, constitute the removal or rendering totally or partially inoperative, other than for purposes of maintenance, repair, or replacement of noise control devices or elements of design of the vehicle.

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

(1) The statement:

Tampering With Noise Control System Prohibited

Federal law prohibits the following acts or the causing thereof:

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

(2) The statement:

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

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

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

§ 205.162-3 [Amended]

46. In § 205.162-3, paragraphs (c), (d), and (e) are removed.

§ 205.162-4 [Removed]

47. Section 205.162-4 is removed.

48. In § 205.160-1, paragraph (a), subparagraph (2) is removed.

49. In § 205.160-1, paragraph (b) is revised to read as follows:

§ 205.160-1 General requirements

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

§ 205.168-2 [Amended]

50. In § 205.168-2, paragraph (a)(2), subdivisions (ii) and (iii) are removed.

51. In § 205.168-2, paragraph (a), subparagraph (3) is removed.

52. In § 205.168-2, paragraph (b), subparagraph (3) is removed.
53. In § 205.168-2, paragraph (f), subparagraph (2), the second sentence, which reads, "All modifications and test results must be reported in the production verification report," is removed.
54. In § 205.158-2, paragraph (g) is removed.
- § 205.168-3 (Removed)
53. Section 205.168-3 is removed.
- § 205.168-7 (Amended)
54. In § 205.168-7, paragraph (c), the last sentence, which reads, "This maintenance must be documented and reported in the final report prepared and submitted in accordance with this subpart," is removed.
- § 205.168-8 (Amended)
57. In § 205.168-8, paragraph (c), the last sentence, which reads, "Any replacement must be reported in the production verification report, including the reason for the replacement," is removed.
58. In § 205.168-10, paragraph (b) is revised to read as follows:
- § 205.168-10 Production verification based on data from previous model years.
- (b) For those configurations whose initial PV noise emission level is less than 2 dB below the standard in effect, production verification will be required when production of that configuration commences each model year, except as provided in paragraph (c) of this section.
- § 205.169 (Amended)
59. In § 205.169, paragraph (f) is removed.
- § 205.171-7 (Removed)
60. Section 205.171-7 is removed.
- § 205.172 (Removed)
61. Section 205.172 is removed.
- § 205.173-1 (Amended)
62. In § 205.173-1, paragraphs (b) and (c) are removed.
- § 205.173-3 (Removed)
63. Section 205.173-3 is removed.
- § 205.203-3 (Removed)
64. Section 205.203 is removed.
- § 205.205-1 (Amended)
65. In § 205.205-1, paragraph (a), subparagraph (2) is removed.
- § 205.205-2 (Amended)
63. In § 205.205-2, paragraph (a)(2), subdivisions (i) and (iii) are removed.
67. In § 205.205-2, paragraph (3) is removed.
68. In § 205.205-2, paragraph (b), subparagraph (3) is removed.
69. In § 205.205-2, paragraph (f) is removed.
- § 205.205-4 (Removed)
70. Section 205.205-4 is removed.
- § 205.205-6 (Amended)
71. In § 205.205-6, paragraph (c), the last sentence, which reads, "This maintenance must be documented and reported in the final report prepared and submitted in accordance with this subpart," is removed.
- § 205.205-7 (Amended)
72. In § 205.205-7, paragraph (c), the last sentence, which reads, "Any replacement must be reported in the production verification report along with the reason for the replacement," is removed.
73. In § 205.205-8, paragraph (b) is revised to read as follows:
- § 205.205-8 Addition of changes to, and deviation from a compactor configuration during the year.
- (b) If the configuration to be added can be grouped within a verified category, and the new configuration is estimated to have a lower A-weighted noise level than a previously verified configuration within the same category, the configuration is to be considered verified.
74. Section 205.205-9 is revised, including the heading to read as follows:
- § 205.205-9 Production verification based on data from previous years.
- (a) Production verification of each configuration will not be required for subsequent model years when the manufacturer's initial production verification noise emission level is at least 2 dB below the noise emission standard and when the manufacturer has not made any changes (which increase the noise emission level) to the noise control components or elements of design used on that configuration.
- (b) Production verification of each configuration will be required for those model years when a more stringent noise emission standard becomes effective.
- § 205.207-5 (Removed)
75. Section 205.207-5 is removed.
76. Section 205.208-2, paragraph (a) revised; paragraphs (b) and (c) are removed; paragraphs (d) and (e) are revised and redesignated paragraphs (b) and (c); paragraph (h) is removed; and paragraphs (f) and (g) are redesignated (d) and (e) respectively. The revised § 205.208-2 reads as follows:
- § 205.208-2 Tampering.
- (a) For each configuration of compactor covered by this part, the manufacturer shall develop a list of those acts which, in his judgment, might be done to the compactor in use and which would constitute the removal or rendering inoperative of noise control devices or elements of design of the compactor.
- (b) The manufacturer shall include in the owner's manual the following information:
- (1) The statement:
- Tampering With Noise Control System Prohibited
- Federal law prohibits the following acts or the causing thereof:
- (1) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new compactor for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use; or (2) the use of the compactor after such device or element or design has been removed or rendered inoperative by any person.
- (2) The statement:
- Among those acts presumed to constitute tampering are the acts listed below. Immediately following this statement, the manufacturer shall include the list developed under paragraph (a) of this section.
- (c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a proscribed act has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle or that the vehicle still meets the noise emission standard of § 205.202, such act will not constitute tampering.
- (d) Manufacturers who only assemble compactors need not fulfill the requirements of paragraphs (a) and (b) of this section. Such manufacturers shall provide ultimate purchasers of their compactors with the tampering list developed by the compactor body manufacturer under paragraph (a) of this section for that particular compactor body and truck chassis combination. When such manufacturers of compactors are required to comply with § 204.205-4(a)(1) and (2) of this subpart, they shall fulfill the requirements of paragraph (a) and (b), of this section.
77. In § 205.208-3, paragraphs (c), (d), and (f) are removed; paragraph (e) is redesignated (c) and is revised to read as follows:

§ 205.200-3 Instructions for maintenance, use, and repair.

(c) Manufacturers who only assemble compactors are not required to fulfill the requirements of paragraphs (a) and (b) of this section. Such manufacturers shall provide the maintenance instructions and log book developed by the compactor body manufacturer for that particular compactor body and chassis combination. When such manufacturers are required to comply with § 204.205-4(a)(1) and (2) of this subpart, they shall fulfill the requirements of paragraphs (a) and (b) of this section.

PART 211—PRODUCT NOISE LABELING

1. The table of Contents is amended to read as follows:

Subpart A—General Provisions

Sec. 211.110 Exemptions.
 211.110-1 Testing exemption.
 211.110-2 National security exemptions.
 211.110-3 Export exemptions.
 211.110-4 [Removed]
 211.110-5 [Removed]
 211.211 Testing by the Administrator.

Subpart B—Hearing Protective Devices

211.205 Special Claims.
 211.209 [Removed]
 211.210-3 [Removed]
 211.212-5 [Removed]

Appendix A. [Removed]
 Appendix B. [Removed]

§ 211.109. [Amended]

2. In § 211.109, paragraph (a), subparagraph (1) is removed.

3. In § 211.109, paragraph (b), subparagraph (4) is removed.

4. In § 211.109, paragraph (c)(1), subdivision (iii) is removed.

5. Section 211.210-1 is revised to read as follows:

§ 211.210-1 Testing exemption.

(a) A new product intended to be used solely for research, investigations, studies, demonstrations or training, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of sections 10(a), (1), (2), (3), and (4) of the Act.

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

(c) For purposes of section 11(d) of the Act, any testing exemption shall be void ab initio with respect to each new

product, originally intended for research, investigations, studies, demonstrations, or training, but distributed in commerce for other uses.

6. Section 211.110-2 is revised to read as follows:

§ 211.110-2 National security exemptions.

(a) A new product which is produced to conform with specifications developed by a national security agency, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of sections 10(a), (1), (2), (3), and (4) of the Act.

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

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

§ 211.110-3 [Amended]

7. In § 211.110-3, paragraph (d) is removed.

§ 211.110-4 [Removed]

8. Section 211.110-4 is removed.

§ 211.110-5 [Removed]

9. Section 211.110-5 is removed.

§ 211.205 [Amended]

10. In § 211.205, paragraphs (b) and (c) are removed.

§ 211.209 [Amended]

11. Section 211.209 is removed.

§ 211.210-1 [Amended]

12. In § 211.210-1, paragraph (a), subparagraph (3) is removed and subparagraphs (3) and (4) are redesignated (2) and (3) respectively.

13. In § 211.210-2, paragraph (a), subparagraph (1) is revised; subparagraph (2) is removed; and subparagraph (3) is redesignated subparagraph (2). Paragraph (a)(1) is revised to read:

§ 211.210-2 Labeling verification requirements.

(a)(1) A manufacturer responsible for label verification must satisfy the label verification requirements of this subpart for a category of hearing protectors before distributing that category of hearing protectors in commerce.

14. In § 211.210-2, paragraph (b), subparagraph (2) is removed.

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

§ 211.210-3 [Removed]

16. Section 211.210-3 is removed.

§ 211.210-6 [Amended]

17. In § 211.210-6, paragraph (b), the last sentence, which reads, "Any replacement must be reported in the labeling verification report, including the reason for replacement," is removed.

18. Section 211.211 is revised to read as follows:

§ 211.211 Compliance with labeling requirement.

(a) All hearing protective devices manufactured after the effective date of this regulation, and meeting the applicability requirements of § 211.201, must be labeled according to this subpart, and must comply with the Labeled Values of mean attenuation.

(b) A manufacturer must take into account both product variability and test-to-test variability when labeling his devices in order to meet the requirements of paragraph (a) of this section. A specific category is considered in compliance with the requirements of § 211.210-1, when the attenuation value at the tested one-third octave band is equal to or greater than the Labeled Value, or mean attenuation value, stated in the supporting information required by § 211.204-4, for that tested frequency. The attenuation value must be determined according to the test procedures of § 211.206. 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 § 211.204-4.

§ 211.212-4 [Amended]

19. In § 211.212-4, paragraph (b), the last sentence, which reads, "Any replacement and the reason for replacement must be reported in the compliance audit test report," is removed.

§ 211.212-5 [Removed]

20. Section 211.212-5 is removed.

21. Section 211.212-8, paragraph (a) is revised to read as follows:

§ 211.212-6 Determination of compliance.

(a) A category will be in compliance with these requirements if the results of the test conducted under the test request, show that:

(1) The mean attenuation value, at each one-third octave band center frequency as determined from the Compliance Audit Test values plus 3 dB(a), is equal to or greater than the mean attenuation value at the same one-third octave band as stated in the Supporting Information required by § 211.204-4; and

(2) The Noise Reduction Rating, when calculated from the mean attenuation

values determined by Compliance Audit Testing, equals or exceeds the Noise Reduction Rating as stated on the label required by § 211.204.

Appendix A- (Removed)

22. Appendix A is removed.

Appendix B- (Removed)

23. Appendix B is removed.

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 BILLING CODE 6900-33-M

**FEDERAL EMERGENCY
 MANAGEMENT AGENCY**

44 CFR Part 67

(Docket No. FEMA-6124)

**National Flood Insurance Program;
 Proposed Flood Elevation
 Determinations; Arizona, et al.**

AGENCY: Federal Insurance
 Administration, FEMA.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect

in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Chappell, P.E., National Flood Insurance Program, (202) 755-5585, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-1128, and 44 CFR 67.4 (a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The

community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/country	Source of flooding	Location	# Ditch # feet above ground Elevation in feet (NGVD)
Arizona	Flagstaff (City) Coconino County	Rio de Flag	Most downstream intersection of Rio de Flag and centerline of Interstate Highway 40.	578
			Intersection of Hop Drive and Navajo Drive	563
			Intersection of Rio de Flag and center of O'Leary Street.	568
			Intersection of Rio de Flag and center of Crescent Drive.	566
			100 feet upstream from center of Fremont Boulevard	558
		Rio de Flag Spill Flow	Intersection of Thorne Road and Borita Street	512
		Penelock Avenue Wash	100 feet upstream from center of Railroad Avenue	517
			50 feet upstream from center of Allen Avenue	523
		Pescadore Valley Wash	Intersection of Pescadore Valley Wash and center of Oakmont Drive.	578
		Country Club Wash	Intersection of Country Club Wash and center of Country Club Drive.	577
		Fanning Drive Wash	Intersection of Fanning Drive Wash and center of Interstate Highway 40 west bound lane	575
			150 feet north from intersection of Linda Vista Drive and Scherene Boulevard.	579
		Switzer Canyon Wash	Intersection of Switzer Canyon Wash and Butler Avenue.	575
			150 feet south of intersection of Switzer Canyon Wash and center of Huntington Drive	563
			Intersection of Switzer Canyon Wash and center of Switzer Drive	568
		Spruce Avenue Wash	40 feet upstream from intersection of Third Street and Sixth Avenue Wash and center of Linda Vista Drive.	567
			Intersection of Spruce Avenue Wash and center of Linda Vista Drive	566
			850 feet north-northwest from intersection of Paradise Road and Park Way.	566