

§ 203.4

40 CFR Ch. I (7-1-03 Edition)

§ 203.4 Low-noise-emission product determination.

(a) The Administrator will, within ninety (90) days after receipt of a properly filed application for certification, determine whether such product is a low-noise-emission product. In doing so, he will determine if the product:

(1) Is one for which a noise source emission standard has been promulgated under section 6 of the act;

(2) Emits levels of noise in amounts significantly below the levels specified in noise emission standard under regulations under section 6 of the act applicable to that product or class of products; and

(3) Is labeled in accordance with regulations issued pursuant to section 8 of the act.

(b) The Administrator will, upon making the determination whether a product is a low-noise-emission product, publish in the FEDERAL REGISTER notice of his determination, and the reasons therefor.

(c) The notice of determination that a product is a low-noise-emission product shall be revocable whenever a change in the low-noise-emission product criterion for what product occurs between determination and decision. Notice of any revocation will be published in the FEDERAL REGISTER, together with a statement of the reasons therefor.

(d) The notice of determination that a product is a low-noise-emission product shall expire upon publication in the FEDERAL REGISTER of the Administrator's notice of a decision that a product will not be certified.

§ 203.5 Suitable substitute decision.

(a) If the Administrator determines that a product is a low-noise-emission product, then within one hundred and eighty (180) days of such determination, in consultation with the appropriate Federal agencies, the Administrator will decide whether such product is a suitable substitute for any class or model or product being purchased by the Federal Government for use by its agencies. Such decision will be based upon the data obtained under § 203.2, the Administrator's evaluation of the data, comments of interested parties, and, as the Administrator deems appro-

priate, an actual inspection or test of the product at such places and times as the Administrator may designate.

(b) In order to compare the data for any class or model of product with any class or model of product presently being purchased by the Federal Government for which the applicant seeks to have its product substituted, the Administrator will enter into appropriate agreements with other Government agencies to gather the necessary data regarding such class or model.

(c) Immediately upon making the decision as to whether a product determined to be a low-noise-emission product is a suitable substitute for any product or class of products being purchased by the Federal Government for its use, the Administrator shall publish in the FEDERAL REGISTER notice of such decision and the reasons therefor.

(d) If the Administrator decides that the product is a suitable substitute for products being purchased by the Federal Government, he will issue a certificate that the product is a suitable substitute for a product or class of products presently being purchased by the Federal Government and will specify with particularity the product or class of products for which the certified product is a suitable substitute.

(e) Any certification made under this section shall be effective for a period of one year from date of issuance.

§ 203.6 Contracts for low-noise-emission products.

(a) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product will be incorporated by reference in any contract for the procurement of such product.

(b) A determination of price to the Government of any certified low-noise-emission product will be made by the Administrator of General Services in coordination with the appropriate Federal agencies in accordance with such procedures as he may prescribe and with subsection c(1) of section 15 of the Act.

§ 203.7 Post-certification testing.

The Administrator will, from time to time, as he deems appropriate, test the emissions of noise from certified low-

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noise-emission products purchased by the Federal Government. If at any time he finds that the noise emission levels exceed the levels on which certification was based, the Administrator shall give the suppliers of such product written notice of this finding, publish such findings in the FEDERAL REGISTER and give the supplier an opportunity to make necessary repairs, adjustments or replacements. If no repairs, adjustments or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

§ 203.8 Recertification.

(a) A product for which a certificate has been issued may be recertified for the following year upon reapplication to the Administrator for this purpose upon such forms as the Administrator may deem appropriate.

(b) If the applicant supplies information establishing that:

(1) The data previously submitted continues to describe his product for purpose of certification;

(2) The low-noise-emission product criterion and "suitable substitute" criteria are to be the same during the period recertification is desired; and

(3) No notice has been issued under § 203.7, then recertification will be made within 30 days after receipt of an appropriate recertification application by the Administrator.

PART 204—NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

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Subpart A—General Provisions

§ 204.1 General applicability.

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

§ 204.2 Definitions.

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

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

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

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

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

(5) *National security exemption* means an exemption from the prohibitions of section 10(a) (1), (2), (3), and (5) of the