

Environmental Protection Agency

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facility that has been described in a previous submission under this subpart need not again be described, but must be identified as that facility.

(2) The following information for each noise emission test conducted:

(i) The individual records for the test vehicles required by § 205.161(a)(2) for all noise emission tests including for each invalid test, the reason for invalidation.

(ii) A complete description of any modification, repair, preparation, maintenance, or testing which could affect the noise emissions of the product and which was performed on the test vehicle but not performed on all other production vehicles; and,

(iii) The test results for any replaced vehicle and the reason for its replacement.

(3) A complete description of the sound data acquisition system if other than those specified in Appendix I.

(4) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. To the best of _____ (company name) knowledge, all testing for which data are reported here was conducted in strict conformance with applicable regulations under 40 CFR part 205 *et seq.*, all the data reported here are a true and accurate representation of such testing, and all other information reported here is true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder. _____ (authorized representative).

(5) Additional information required by the test request.

(d) Information required to be submitted to the Administrator under this section must be sent to the following address: Director, Noise and Radiation Enforcement Division, (EN-387), U.S. Environmental Protection Agency, Washington, DC 20460.

§ 205.160-6 Passing or failing under SEA.

(a) A failing vehicle is one whose measured noise level is in excess of the applicable noise emission standard in § 205.152.

(b) The number of failing vehicles in a sample determines whether the sample passes or fails (See applicable tables in Appendix II). If the number of

failing vehicles is greater than or equal to the number of Column B, the sample fails. If the number of failing vehicles is less than or equal to the number in Column A, the sample passes.

(c) Pass or failure of an SEA takes place when a decision that a vehicle is a passing or failing unit is made on the last vehicle required to make a decision under paragraph (b) of this section.

(d) If the manufacturer passes the SEA, he will not be required to perform any additional testing on subsequent vehicles to satisfy the test request.

(e) The Administrator may terminate testing earlier than required in paragraph (b) of this section, based on a request by the manufacturer, accompanied by voluntarily ceasing distribution in commerce of vehicles from the category, configuration or configuration subgroup in question, manufactured at the plant which produced the products being tested. Before reinitiating distribution in commerce of that vehicle category, configuration or configuration subgroup from that plant, the manufacturer must take the action described in § 205.160-8(a)(1) and (2).

§ 205.160-7 Continued testing.

(a) If an SEA failure occurs according to paragraph (b) of § 205.160-6, the Administrator may require that any or all vehicles of that category, configuration or configuration subgroup produced at that plant be tested before distribution in commerce.

(b) The Administrator will notify the manufacturer in writing of his intent to require continued testing of vehicles under paragraph (a) of this section.

(c) The manufacturer may request a hearing on the issues of whether the SEA was conducted properly; whether the criteria for SEA failure have been met; and the appropriateness or scope of a continued testing order. If a hearing is requested, the hearing will begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress will affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

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(d) Any tested vehicle which demonstrates conformance with the applicable standard may be distributed into commerce.

(e) Any distribution into commerce of a vehicle which does not comply with the applicable standard is a prohibited act.

§ 205.160-8 Prohibition of distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the manufacturer to cease testing under § 205.160-7 after the manufacturer has taken the following actions:

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

(2) Demonstration that the specified vehicle category, configuration or configuration subgroup has passed a retest conducted in accordance with § 205.160, and the conditions specified in the test request.

(b) The manufacturer may begin testing under paragraph (a)(2) of this section upon submitting the report required by paragraph (a)(1) of this section, and may cease continued testing upon making the demonstration required by paragraph (a)(2) of this section. The Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of paragraphs (a)(1) and (2) of this section.

(c) Any vehicle failing the prescribed noise emission tests conducted pursuant to appendix I may not be distributed in commerce until necessary adjustments or repairs have been made and the vehicle passes a retest.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.162 In-use requirements.

§ 205.162-1 Warranty.

(a) The vehicle manufacturer who is required to production verify under this subpart must include in the owner's manual or in other information supplied to the ultimate purchaser the following statement:

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NOISE EMISSIONS WARRANTY [RESERVED]

(b) [Reserved]

[45 FR 86708, Dec. 31, 1980, as amended at 48 FR 27040, June 13, 1983]

§ 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 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.

(d) The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing its own prohibitions against the removal or rendering inoperative of