

Environmental Protection Agency

§ 205.169

§ 205.168–11 Order to cease distribution.

(a) If a category of exhaust systems is found not to comply with this subpart because it has not been verified or labeled as required by § 205.169, the Administrator may issue an order to the manufacturer to cease distribution in commerce exhaust systems of that category. This order will not be issued if the manufacturer has made a good faith attempt to properly production verify the category and can establish such good faith.

(b) Any such order shall be issued after notice and opportunity for a hearing which will be held in accordance with title 5 U.S.C. 554.

[45 FR 86718, Dec. 31, 1980, as amended at 48 FR 27040, June 13, 1983]

§ 205.169 Labeling requirements.

(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 all such exhaust systems or exhaust system components to be distributed in commerce.

(b) The labels or marks shall be affixed in such a manner that they cannot be removed without destroying or defacing them, and must not be applied to any part which is easily detached from such product.

(c) The label or mark shall be in a readily visible position when the exhaust system or exhaust system component is installed on all motorcycles for which it is designed and marketed.

(d) All required language shall be lettered in the English language in block letters and numerals in a color that contrasts with its background.

(e) The label or mark must contain the following information:

(1) For exhaust systems subject to the noise emission standards of § 205.166:

(i) The label heading: Motorcycle Exhaust System Noise Emission Control Information;

(ii)(A) For original equipment and replacement exhaust system, the following statement:

This (manufacturer's name) exhaust system (serial number) meets EPA noise emission requirements of (noise emission standard) dBA for the following motorcycles: (list of model specific codes). Installation of this exhaust system on motorcycle models not specified may violate Federal law.

(B) For exhaust system components designed and marketed for motorcycles, and tested in accordance with § 205.168 as a constituent of a complete exhaust system comprising non-original equipment components (other than itself), as provided for in § 205.166(b)(3), the following statement:

This (manufacturer's name) (type of component) (serial number), when installed with a legal (type of component), meets EPA noise emission requirements of (noise emission standard) dBA for the following motorcycles: (list of model specific codes). Installation of this exhaust system components on motorcycle models not specified may violate Federal law.

(iii) The model specific code must be the same as used by the motorcycle manufacturer and described in § 205.158(a)(6).

(2) For exhaust systems designed solely for use on competition motorcycles (as defined by § 205.151(a)(3) and so designated and labeled by the manufacturer), the statement:

This product is designed for use on closed course competition motorcycles only and does not conform to U.S. EPA noise emission standards. Used on motorcycles subject to EPA noise regulations constitutes tampering and is a violation of Federal law unless it can be shown that such use does not cause the motorcycle to exceed applicable Federal standards.

(3) For exhaust systems designed solely for use on motorcycles manufactured before January 1, 1982, the statement:

This product is designed for use on pre-1982 model year motorcycles only and does not conform to U.S. EPA noise emission standards. Use on motorcycles subject to EPA noise regulations constitutes tampering and is a violation of Federal law unless it can be shown that such use does not cause the motorcycle to exceed applicable Federal standards.

(4) For replacement exhaust systems manufactured in the United States solely for use outside the U.S. and not conforming to the noise emissions

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standards of this regulation, the statement: "For Export Only."

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57722, Dec. 28, 1982]

§ 205.170 Testing by the Administrator.

(a)(1) In order for the Administrator to determine whether such exhaust systems or a manufacturer's test facility conform to applicable regulations, the Administrator may require that exhaust systems to be tested pursuant to the Act be submitted to him, at such place and time as he reasonably designates. He may designate the quantity of exhaust systems and the duration of time he reasonably requires for the purpose of conducting tests in accordance with test procedures described in appendix I. The manner in which the Administrator conducts such tests, the EPA test facility, and the test procedures employed will be based upon good engineering practice and meet or exceed the requirements of appendix I.

(2) If the Administrator specifies that he will conduct such testing at the manufacturer's facility, the manufacturer shall make available instrumentation and equipment of the type required for test operators by these regulations. The Administrator may conduct such tests with his own equipment, having specifications equal to or exceeding the performance specifications of the instrumentation and equipment required in these regulations.

(3) The manufacturer may observe tests conducted by the Administrator pursuant to this section on exhaust systems produced by the manufacturer and may copy the data accumulated from such tests. The manufacturer may inspect any of the exhaust systems before and after testing by the Administrator.

(b)(1) If, based on tests conducted by the Administrator or on other relevant information, the Administrator determines that the test facility does not meet the requirements of appendix I or the requirements for an alternative test procedure approved under § 205.154, the Administrator will give notice to the manufacturer in writing of his determination and the reasons underlying it.

(2) The manufacturer may, at any time within 15 days after receipt of a

notice issued under paragraph (b)(1) of this section, request a hearing conducted in accordance with 5 U.S.C. 554 on the issue of whether his test facility met the requirements. Such notice will not take effect until 15 days after its receipt by the manufacturer, or, if a hearing is requested under this paragraph, until adjudication by the administrative law judge.

(3) After any notice issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from that test facility will be acceptable for purposes of this subpart.

(4) The manufacturer may request in writing that the Administrator reconsider his determination under paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and that such changes have resolved the reasons for disqualification.

(5) Within 10 working days after receipt of the manufacturer's request for reconsideration pursuant to paragraph (b)(4) of this section, the Administrator will notify the manufacturer of his determination and the reasons underlying it with regard to the requalification of the test facility.

(c) The Administrator will assume all reasonable costs associated with shipment of exhaust systems to the place designated pursuant to paragraph (a) of this section except with respect to:

(1) [Reserved]

(2) Testing of a reasonable number of exhaust systems (i) for purposes of selective enforcement auditing under § 205.171, or (ii) if the manufacturer has failed to establish that there is a correlation between its test facility and the EPA test facility, or (iii) the Administrator has reason to believe, and provides the manufacturer with a statement of such reason, that the exhaust systems to be tested would fail to meet the standard prescribed in this subpart if tested at the EPA test facility, even though they would meet such standard if tested at the manufacturer's test facility;

(3) Any testing performed during a period when a notice of non-conformance of the manufacturer's test facility issued pursuant to paragraph (b) of this section is in effect;