

Environmental Protection Agency

§ 204.2

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

Subpart A—General Provisions

Sec.

- 204.1 General applicability.
- 204.2 Definitions.
- 204.3 Number and gender.
- 204.4 Inspection and monitoring.
- 204.5 Exemptions.
- 204.5-1 Testing exemption.
- 204.5-2 National security exemptions.
- 204.5-3 Export exemptions.

Subpart B—Portable Air Compressors

- 204.50 Applicability.
- 204.51 Definitions.
- 204.52 Portable air compressor noise emission standard.

- 204.54 Test procedures.
- 204.55 Requirements.
- 204.55-1 General standards.
- 204.55-2 Requirements.
- 204.55-3 Configuration identification.
- 204.55-4 Labeling.
- 204.56 Testing by the Administrator.
- 204.57 Selective enforcement auditing.
- 204.57-1 Test request.
- 204.57-2 Test compressor sample selection.
- 204.57-3 Test compressor preparation.
- 204.57-4 Testing.
- 204.57-5 Reporting of test results.
- 204.57-6 Acceptance and rejection of batches.
- 204.57-7 Acceptance and rejection of batch sequence.
- 204.57-8 Continued testing.
- 204.57-9 Prohibition of distribution in commerce; manufacturer's remedy.
- 204.58 In-use requirements.
- 204.58-1 Warranty.
- 204.58-2 Tampering.
- 204.58-3 Instructions for maintenance, use, and repair.
- 204.59 Recall of non-complying compressors.

APPENDIX I TO PART 204

AUTHORITY: (42 U.S.C. 4905), 86 Stat. 1237.

SOURCE: 41 FR 2172, Jan. 14, 1976, unless otherwise noted.

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

§ 204.3

Act, which may be granted under section 10(b)(1) of the Act for the purpose of national security.

(6) [Reserved]

(7) *Testing exemption* means an exemption from the prohibitions of section 10(a) (1), (2), (3), and (5) of the Act, which may be granted under section 10(b)(1) of the Act for the purpose of research, investigations, studies, demonstrations, or training, but not including national security where lease or sale of the exempted product is involved.

(8) *Warranty* means the warranty required by section 6(c)(1) of the Act.

(9) *Tampering* means those acts prohibited by section 10(a)(2) of the Act.

(10) *Maintenance instructions* means those instructions for maintenance, use, and repair, which the Administrator is authorized to require pursuant to section 6(c)(1) of the Act.

(11) *Type I Sound Level Meter* means a sound level meter which meets the Type I requirements of American National Standard Specification S1.4-1971 for sound level meters. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(12) *dBA* is the standard abbreviation for A-weighted sound level in decibels.

(13) *Reasonable assistance* means providing timely and unobstructed access to test products or products and records required by this part and opportunity for copying such records or testing such test products.

(14) *Slow meter response* means the meter ballistics of meter dynamic characteristics as specified by American National Standard S1.4-1971 or subsequent approved revisions.

(15) *Sound level* means the weighted sound pressure level measured by the use of a metering characteristic and weighing A, B, or C as specified in American National Standard Specification for Sound Level Meters S1.4-1971 or subsequent approved revision. The weighting employed must be specified, otherwise A-weighting is understood.

(16) *Sound pressure level* means, in decibels, 20 times the logarithm to the base ten of the ratio of a sound pressure to the reference sound pressure of 20 micropascals (20 micronewtons per square meter). In the absence of any

40 CFR Ch. I (7-1-02 Edition)

modifier, the level is understood to be that of a root-mean-square pressure.

(17) *Product* means any construction equipment for which regulations have been promulgated under this part and includes "test product."

(18) *Test product* means any product that is required to be tested pursuant to this part.

[41 FR 2172, Jan. 14, 1976, as amended at 47 FR 57711, Dec. 28, 1982]

§ 204.3 Number and gender.

As used in this part, words in the singular shall be deemed to import the plural, and words in the masculine gender shall be deemed to import the feminine and vice versa, as the case may require.

§ 204.4 Inspection and monitoring.

(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, (2) whether test product testing is being conducted in accordance with these regulations, and (3) whether products being produced for distribution into commerce comply with these regulations.

(b) The Director, Noise Enforcement Division, may request that a manufacturer subject to this part admit an EPA Enforcement Officer during operating hours to any of the following:

(1) Any facility or site where any product to be distributed into commerce is manufactured, assembled, or stored;

(2) Any facility or site where any tests conducted pursuant to this part or any procedures or activities connected with such tests are or were performed; and

(3) Any facility or site where any test product is present.

(c)(1) An EPA Enforcement Officer, once admitted to a facility or site, will not be authorized to do more than:

(i) To inspect and monitor test product manufacture and assembly, selection, storage, preconditioning, noise emission testing, and maintenance, and to verify correlation or calibration of test equipment;

Environmental Protection Agency

§ 204.5-2

(ii) To inspect products prior to their distribution in commerce;

(iii) [Reserved]

(iv) To inspect and photograph any part or aspect of any such product and any component used in the assembly thereof that are reasonably related to the purpose of his entry;

(v) To obtain from those in charge of the facility or site such reasonable assistance as he may request to enable him to carry out any proper function listed in this section.

(2) [Reserved]

(3) The provisions of this section apply whether the facility or site is owned or controlled by the manufacturer or by one who acts for the manufacturer.

(d) For purposes of this section:

(1) An "EPA Enforcement Officer" is an employee of the EPA Office of Enforcement who displays upon arrival at a facility or site the credentials identifying him as such an employee and a letter signed by the Director, Noise Enforcement Division designating him to make the inspection.

(2) Where test product storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (d)(2) of this section are concerned, "operating hours" shall mean all times during which product manufacture or assembly is in operation or all times during which product testing or maintenance, production, or compilation of records is taking place, or any other procedure or activity related to selective enforcement audit testing or to product manufacture or assembly is being carried out.

(e) The manufacturer shall admit to a facility or site an EPA Enforcement Officer who presents a warrant authorizing entry. In the absence of such warrant, entry to any facility or site under this section will be only upon the consent of the manufacturer.

(1) It is not a violation of this regulation or the Act for any person to refuse entry without a warrant.

(2) The Administrator or his designee may proceed ex parte to obtain a warrant whether or not the manufacturer has refused entry.

(42 U.S.C. 4905, 4912, 86 Stat. 1237-1239, 1244)

[41 FR 2172, Jan. 14, 1976, as amended at 43 FR 27989, June 28, 1978; 47 FR 57711, Dec. 28, 1982]

§ 204.5 Exemptions.

§ 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 (5) 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.

[47 FR 57711, Dec. 28, 1982]

§ 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 to be produced to conform with specifications developed by a national security agency but distributed in commerce for other uses.

(d) Any manufacturer or person subject to the liabilities of section 11(a) with respect to any product originally intended for a national security agency, but distributed in commerce for use in any State, may be excluded from the

§ 204.5-3

application of section 11(a) with respect to such product based upon a showing that such manufacturer:

(1) Had no knowledge of such product being distributed in commerce for use in any state; and

(2) Made reasonable efforts to ensure that such products would not be distributed in commerce for use in any State. Such reasonable efforts would include investigation, prior dealings, contract provisions, etc.

[47 FR 57711, Dec. 28, 1982]

§ 204.5-3 Export exemptions.

(a) A new product intended solely for export, 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 an export exemption is required.

(c) For purposes of section 11(d) of the Noise Control Act, any export exemption under section 10(b)(2) shall be void ab initio with respect to each new product intended solely for export which is distributed in commerce for use in any state.

(d) The Administrator will not institute proceedings against any manufacturer pursuant to section 11(d)(1) of the Noise Control Act with respect to any product, originally intended for export, but distributed in commerce for use in any state, if it is demonstrated to the Administrator's satisfaction that:

(1) The manufacturer had no knowledge that such product would be distributed in commerce for use in any state; and

(2) The manufacturer made reasonable efforts to ensure that such product would not be distributed in commerce for use in any state. Such reasonable efforts would include consideration of prior dealings with any person which resulted in introduction into commerce of a product manufactured for export only, investigation of prior instances known to the manufacturer of introduction into commerce of a product manufactured for export only, and contract provisions which minimize the probability of introduction into com-

40 CFR Ch. I (7-1-02 Edition)

merce of a product manufactured for export only.

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61454, Dec. 5, 1977. Redesignated at 47 FR 57711, Dec. 28, 1982]

Subpart B—Portable Air Compressors

§ 204.50 Applicability.

The provisions of this subpart shall apply to portable air compressors which are manufactured after the effective dates specified in § 204.52, and which are "New Products" as defined in the Act. These provisions apply only to portable air compressors with a rated capacity equal to or above 75 cubic feet per minute which deliver air at pressures greater than 50 psig. The provisions do not apply to the pneumatic tools or equipment that the portable air compressor is designed to power.

§ 204.51 Definitions.

(a) *Portable air compressor* or *compressor* means any wheel, skid, truck, or railroad car mounted, but not self-propelled, equipment designed to activate pneumatic tools. This consists of an air compressor (air end), and a reciprocating rotary or turbine engine rigidly connected in permanent alignment and mounted on a common frame. Also included are all cooling, lubricating, regulating, starting, and fuel systems, and all equipment necessary to constitute a complete, self-contained unit with a rated capacity of 75 cfm or greater which delivers air at pressures greater than 50 psig, but does not include any pneumatic tools themselves.

(b) *Maximum Rated Capacity* means that the portable air compressor, operating at the design full speed with the compressor on load, delivers its rated cfm output and pressure, as defined by the manufacturer.

(c) *Model year* means the manufacturer's annual production period which includes January 1 of such calendar year; Provided, that if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

Environmental Protection Agency**§ 204.52**

(d) *Compressor configuration* means the basic classification unit of a manufacturer's product line and is comprised of compressor lines, models or series which are identical in all material respects with regard to the parameters listed in § 204.55-3.

(e) *Category* means a group of compressor configurations which are identical in all aspects with respect to the parameters listed in paragraph (c)(1)(i) of § 204.55-2.

(f) [Reserved]

(g) *Noise emission test* means a test conducted pursuant to the measurement methodology specified in § 204.54.

(h) *Inspection Criteria* means the rejection and acceptance numbers associated with a particular sampling plan.

(i) *Acceptable Quality Level (AQL)* means the maximum percentage of failing compressors that, for purposes of sampling inspection can be considered satisfactory as a process average.

(j) *Batch* means the collection of compressors of the same category or configuration, as designated by the Administrator in a test request, from which a batch sample is to be randomly drawn and inspected to determine conformance with the acceptability criteria.

(k) *Batch sample* means the collection of compressors that are drawn from a batch.

(l) *Batch sample size* means the number of compressors of the same category or configuration which is randomly drawn from the batch sample and which will receive emissions tests.

(m) *Test sample* means the collection of compressors from the same category or configuration which is randomly drawn from the batch sample and which will receive emissions tests.

(n) *Batch size* means the number, as designated by the Administrator in the test request, of compressors of the same category or configuration in a batch.

(o) *Test sample size* means the number of compressors of the same configuration in a test sample.

(p) *Acceptable of a batch* means that the number of non-complying compressors in the batch sample is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(q) *Rejection of a batch* means that the number of non-complying compressors in the batch sample is greater than or equal to the rejection number as determined by the appropriate sampling plan.

(r) *Acceptance of a batch sequence* means that the number of rejected batches in the sequence is less than or equal to the sequence acceptable number as determined by the appropriate sampling plan.

(s) *Rejection of a batch sequence* means that the number of rejected batches in a sequence is greater than or equal to the sequence rejection number as determined by the appropriate sampling plan.

(t) *Shift* means the regular production work period for one group of workers.

(u) *Failing compressor* means that the measured noise emissions of the compressor, when measured in accordance with the applicable procedure, exceeds the applicable standard.

(v) *Acceptance of a compressor* means that the measured noise emissions of the compressor, when measured in accordance with the applicable procedure, conforms to the applicable standard.

(w) *Test Compressor* means a compressor used to demonstrate compliance with the applicable noise emissions standard.

(x) *Tampering* means those acts prohibited by section 10(a)(2) of the Act.

(Secs. 6 and 13, Noise Control Act, Pub. L. 92-574, 86 Stat. 1244; (42 U.S.C. 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 41635, Aug. 18, 1977; 47 FR 57711, Dec. 28, 1982]

§ 204.52 Portable air compressor noise emission standard.

(a) Effective January 1, 1978, portable air compressors with maximum rated capacity of less than or equal to 250 cubic feet per minute (cfm) shall not produce an average sound level in excess of 76 dBA when measured and evaluated according to the methodology provided by this regulation. Effective July 1, 1978, portable air compressors with maximum rated capacity greater than 250 cfm shall not produce an average sound level in excess of 76 dBA

§ 204.54

when measured and evaluated according to the methodology provided by this regulation.

(b) *In-Use Standard.* [Reserved]

(c) *Low Noise Emission Product.* [Reserved]

§ 204.54 Test procedures.

(a) *General.* This section prescribes the conditions under which noise emission standard compliance Selective Enforcement Auditing or Testing by the Administrator must be conducted and the measurement procedures that must be used to measure the sound level and to calculate the average sound level of portable air compressors on which the test is conducted.

(b) *Test site description.* The location for measuring noise employed during noise compliance testing must consist of an open site above a hard reflecting plane. The reflecting plane must consist of a surface of sealed concrete or sealed asphalt and must extend one (1) meter beyond each microphone location. No reflecting surface, such as a building, signboard, hillside, etc., shall be located within 10 meters of a microphone location.

(c) *Measurement equipment.* The measurement equipment must be used during noise standard compliance testing and must consist of the following or its equivalent:

(1) A sound level meter and microphone system that conform to the Type I requirements of American National Standard (ANS) S1.4-1971, "Specification for Sound Level Meters," and to the requirements of the International Electrotechnical Commission (IEC) Publication No. 179, "Precision Sound Level Meters."

(2) A windscreen must be employed with the microphone during all measurements of portable air compressor noise when the wind speed exceeds 11 km/hr. The windscreen shall not affect the A-weighted sound levels from the portable air compressor in excess of ± 0.5 dB.

(3) The entire acoustical instrumentation system including the microphone and cable shall be calibrated before each test series and confirmed afterward. A sound level calibrator accurate to within ± 0.5 dB shall be used. A calibration of the instrumentation

40 CFR Ch. I (7-1-02 Edition)

shall be performed at least annually using the methodology of sufficient precision and accuracy to determine compliance with ANS S1.4-1971 and IEC 179. This calibration shall consist, at a minimum, of an overall frequency response calibration and an attenuator (gain control) calibration plus a measurement of dynamic range and instrument noise floor.

(4) An anemometer or other device accurate to within ± 10 percent shall be used to measure wind velocity.

(5) An indicator accurate to within ± 2 percent shall be used to measure portable air compressor engine speed.

(6) A gauge accurate to within ± 5 percent shall be used to measure portable compressor air pressure.

(7) A metering device accurate to within ± 10 percent shall be used to measure the portable air compressor compressed air volumetric flow rate.

(8) A barometer for measuring atmospheric pressure accurate to within ± 5 percent.

(9) A thermometer for measuring temperature accurate to within ± 1 degree.

(d) *Portable air compressor operation.* The portable air compressor must be operated at the design full speed with the compressor on load, delivering its rated flow and output pressure, during noise emission standard compliance testing. The air discharge shall be provided with a resistive loading such that no significant pressure drop or throttling occurs across the compressor discharge valve. The air discharge shall be piped clear of the test area or fed into an effective silencer. The sound pressure level due to the air discharge shall be at least 10 dB below the sound pressure level generated by the portable air compressor.

(e) *Test conditions.* Noise standard compliance testing must be carried out under the following conditions:

(1) No rain or other precipitation,

(2) No wind above 19 km/hr,

(3) No observer located within 1 meter, in any direction, of any microphone location, nor between the test unit and any microphone,

(4) Portable air compressor sound levels, at each microphone location, 10 dB or greater than the background sound level,

Environmental Protection Agency**§ 204.55-2**

(5) The machine shall have been warmed up and shall be operating in a stable condition as for continuous service and at its maximum rated capacity. All cooling air vents in the engine/compressor enclosure, normally open during operation, shall be fully open during all sound level measurements. Service doors that should be closed during normal operation (at any and all ambient temperatures) shall be closed during all sound level measurements.

(f) *Microphone locations.* Five microphone locations must be employed to acquire portable air compressor sound levels to test for noise standard compliance. A microphone must be located 7 ± 1 meters from the right, left, front, and back sides and top of the test unit. The microphone position to the right, left, front, and back sides of the test unit must be located 1.5 ± 1 meters above the reflecting plane.

(g) *Data required.* The following data must be acquired during noise emission standard compliance testing:

(1) A-weighted sound level at one microphone location prior to operation of the test unit and at all microphone locations during test unit operations, as defined in paragraph (d) of this section.

(2) Portable air compressor engine speed.

(3) Portable air compressor compressed gas pressure.

(4) Portable air compressor flow rate.

(5) All other data contained in Appendix I, Table IV.

(h) *Calculation of average sound level.* The average A-weighted sound level from measurements at the specified microphone locations must be calculated by the following method:

$$L = 10 \log \left(\frac{1}{5} [\text{Antilog } L_1/10 + \text{Antilog } L_2/10 + \text{Antilog } L_3/10 + \text{Antilog } L_4/10 + \text{Antilog } L_5/10] \right)$$

Where:

L =The average A-weighted sound level (in decibels)

L_1 =The A-weighted sound level (in decibels) at microphone position 1

L_2 =The A-weighted sound level (in decibels) at microphone position 2

L_3 =The A-weighted sound level (in decibels) at microphone position 3

L_4 =The A-weighted sound level (in decibels) at microphone position 4

L_5 =The A-weighted sound level (in decibels) at microphone position 5

(i) The Administrator may approve applications from manufacturers of portable air compressors for the approval of test procedures which differ from those contained in this part so long as the alternate procedures have been demonstrated to correlate with the prescribed procedure. To be acceptable, alternate testing procedures shall be such that the test results obtained will identify all those test units which would not comply with the noise emission limit prescribed in § 204.52 when tested in accordance with the procedures contained in § 204.54 (a) through (h). Tests conducted by manufacturers under approved alternate procedures may be accepted by the Administrator for all purposes.

(j) *Presentation of information.* All information required by this section may be recorded using the format recommended on the Noise Data Sheet shown in Appendix I, Table IV.

[41 FR 2172, Jan. 14, 1976, as amended at 41 FR 8347, Feb. 26, 1976; 47 FR 57711, Dec. 28, 1982]

§ 204.55 Requirements.**§ 204.55-1 General standards.**

(a) Every new compressor manufactured for distribution in commerce in the United States which is subject to the standards prescribed in this subpart and not exempted in accordance with § 204.5:

(1) Shall be labeled in accordance with the requirements of § 204.55-4.

(2) Shall conform to the applicable noise emission standard established in § 204.52

(b) [Reserved]

[41 FR 2172, Jan. 14, 1976, as amended at 47 FR 57711, Dec. 28, 1982]

§ 204.55-2 Requirements.

(a)(1) Prior to distribution in commerce, compressors of a specific configuration must verify such configurations in accordance with this subpart.

(2) [Reserved]

(3) At any time with respect to a configuration under this subpart, the Administrator may require that the manufacturer ship test compressors to an

§ 204.55-3

EPA test facility in order for the Administrator to perform the tests required for production verification.

(b) The requirements for purposes of testing by the Administrator and Selective Enforcement Auditing consist of:

(1) Testing in accordance with § 204.54 of a compressor selected in accordance with § 204.57-2; and

(2) Compliance of the test compressor with the applicable standards when tested in accordance with § 204.54.

(c)(1) In lieu of testing compressors of every configuration, as described in paragraph (b) of this section, the manufacturer may elect to verify the configuration based on representative testing, the requirements of which consist of:

(i) Grouping configurations into a category where each category will be determined by a separate combination of at least the following parameters (a manufacturer may use more parameters):

(A) Engine type.

- (1) Gasoline—two stroke cycle
- (2) Gasoline—four stroke cycle
- (3) Diesel—two stroke cycle
- (4) Diesel—four stroke cycle
- (5) Rotary—Wankel
- (6) Turbine
- (7) Other

(B) Engine manufacturer

(C) Compressor delivery rate (at rated pressure)

(ii) Identifying the configuration within each category which emits the highest sound level in dBA based on best technical judgment, emission test data, or both.

(iii) Testing in accordance with § 204.54 selected in accordance with § 204.57-2 which must be a compressor of the configuration which is identified pursuant to paragraph (c)(1)(iii) of this section as having the highest sound level (estimated or actual) within the category.

(iv) Compliance of the test compressor with applicable standards when tested in accordance with § 204.54.

(2) Where the requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within a category are considered represented by the tested compressor.

40 CFR Ch. I (7-1-02 Edition)

(3) Where the manufacturer tests a compressor configuration which has not been determined as having the highest sound level of a category, but all other requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within that category which are determined to have sound levels no greater than the tested compressor are considered to be represented by the tested compressor. However, a manufacturer must for purposes of Testing by the Administrator and Selective Enforcement Auditing verify according to the requirements of paragraph (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher sound level than the compressor configuration tested.

(d) A manufacturer may elect for purposes of Testing by the Administrator and Selective Enforcement Auditing to use representative testing, pursuant to paragraph (c) of this section, all or part of his product line.

(e) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any compressor determined not in compliance with applicable standards:

(1) In the case of representative testing, a new test compressor from another configuration must be selected according to the requirements of paragraph (c) of this section in order to verify the configurations represented by the non-compliant compressor.

(2) Modify the test compressor and demonstrate by testing that it meets applicable standards. The manufacturer must modify all production compressors of the same configuration in the same manner as the test compressor before distribution into commerce.

(Secs. 6 and 13, Noise Control Act, Pub. L. 92-574, 86 Stat. 1244; (42 U.S.C. 4912); 42 U.S.C. 4905; 86 Stat. 1237 and secs. 6, 10, 11, 13, Pub. L. 92-574, 86 Stat. 1234 (42 U.S.C. 4905, 4909, 4910, 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61455, Dec. 5, 1977; 47 FR 57711, Dec. 28, 1982; 49 FR 26738, June 29, 1984]

§ 204.55-3 Configuration identification.

(a) A separate compressor configuration shall be determined by each combination of the following parameters:

Environmental Protection Agency**§ 204.56**

- (1) The compressor type (screw, sliding vane, etc.).
- (2) Number of compressor stages.
- (3) Maximum pressure (psi).
- (4) Air intake system of compressor:
 - (i) Number of filters;
 - (ii) Type of filters.
- (5) The engine system:
 - (i) Number of cylinders and configuration (L-6, V-8, V-12);
 - (ii) Displacement;
 - (iii) Horsepower;
 - (iv) Full load rpm.
- (6) Type cooling system, e.g., air cooled, water cooled.
- (7) Fan:
 - (i) Diameter;
 - (ii) Maximum fan rpm.
- (8) The compressor enclosure:
 - (i) Height, length, and width;
 - (ii) Acoustic material manufacturer, type, part number.
- (9) The induction system (engine):
 - (i) Natural;
 - (ii) Turbocharged.
- (10) The muffler:
 - (i) Manufacturer;
 - (ii) Manufacturer part number;
 - (iii) Quantity of mufflers used;
- (11) Category parameters listed at § 204.55-2.

§ 204.55-4 Labeling.

(a)(1) The manufacturer of any compressor subject to the standards prescribed in § 204.52 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all such compressors to be distributed in commerce.

(2) The label shall be permanently attached, in a readily visible position, on the compressor enclosure.

(3) The label shall be affixed by the compressor manufacturer, who has verified such compressor, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment that is easily detached from such compressor.

(4) Labels for compressors not manufactured solely for use outside the United States shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color

that contrasts with the background of the label:

- (i) The label heading: Compressor Noise Emission Control Information;
- (ii) Full corporate name and trademark of manufacturer;
- (iii) Date of manufacture, which may consist of a serial number or code in those instances where records are specified and maintained.

- (iv) The statement:

This Compressor Conforms to U.S. E.P.A. Regulations for Noise Emissions Applicable to Portable Air Compressors. The following acts or the causing thereof by any person are prohibited by the Noise Control Act of 1972:

(A) The removal or rendering inoperative, other than for the purpose of maintenance, repair, or replacement, of any noise control device or element of design (listed in the owner's manual) incorporated into this compressor in compliance with the Noise Control Act;

(B) The use of this compressor after such device or element of design has been removed or rendered inoperative.

(b) Compressors manufactured solely for use outside the United States shall be clearly labeled "For Export Only."

(Secs. 6, 13, Pub. L. 92-574, (42 U.S.C. 4912); 42 U.S.C. 4905; 86 Stat. 1237 and secs. 6, 10, 11, 13, Pub. L. 92-574, 86 Stat. 1234 (42 U.S.C. 4905, 4909, 4910, 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61455, Dec. 5, 1977. Redesignated at 47 FR 57712, Dec. 28, 1982, and amended at 49 FR 26738, June 29, 1984]

§ 204.56 Testing by the Administrator.

(a)(1) The Administrator may require that any compressor tested or scheduled to be tested pursuant to these regulations or any other untested compressors be submitted to him, at such place and time as he may designate, for the purpose of conducting tests in accordance with the test procedures described in § 204.54 to determine whether such compressors conform to applicable regulations.

(2) The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment of the type required by these regulations shall be made available by the manufacturer for test operations. The Administrator may conduct such tests with his own equipment, which shall be equal to or exceed the performance

§ 204.57

40 CFR Ch. I (7-1-02 Edition)

specifications of the instrumentation or equipment specified by the Administrator in these regulations.

(b)(1) If, based on tests conducted by the Administrator or other relevant information, the Administrator determines that the test facility does not meet the requirements of § 204.54-1 (a) and (b) he will notify the manufacturer in writing of his determination and the reasons therefor.

(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 was in conformance. Such notice will not take effect until 15 days after receipt by the manufacturer, or if a hearing is requested under this paragraph, until adjudication by the hearing examiner.

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

(4) The manufacturer may request in writing that the Administrator reconsider this 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 such changes have resolved the reasons for disqualification.

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

(Secs. 6, 13, Pub. L. 92-574 (42 U.S.C. 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61455, Dec. 5, 1977]

§ 204.57 Selective enforcement auditing.

§ 204.57-1 Test request.

(a) The Administrator will request all testing under this subpart by means of a test request addressed to the manufacturer.

(b) [Reserved]

(c) The test request will specify the compressor category or configuration selected for testing, the batch from which sampling is to begin, for testing and the batch size, the manufacturer's plant or storage facility from which the compressors must be selected, and the time at which compressors must be selected. The test request will also provide for situations in which the selected configuration or category is unavailable for testing. The test request may include an alternative category or configuration selected for testing in the event that compressors of the first specified category or configuration are not available for testing because the compressors are not being manufactured at the specified plant and/or are not being manufactured during the specified time or not being stored at the specified plant or storage facility.

(d) Any manufacturer shall, upon receipt of the test request, select and test a batch sample of compressors from two consecutively produced batches of the compressor category or configurations specified in the test request in accordance with these regulations and the conditions specified in the test request.

(e)(1) Any testing conducted by the manufacturer pursuant to a test request shall be initiated within such period as is specified in the test request; Except, that such initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions in any 24-hour period do not permit testing: *Provided*, That ambient test site weather conditions for that period are recorded.

(2) The manufacturer shall complete noise emission testing on a minimum of five compressors per day, unless otherwise provided for by the Administrator or unless ambient test site conditions only permit the testing of a lesser number: *Provided*, That ambient test site weather conditions for that period are recorded.

(3) The manufacturer will be allowed 24 hours to ship compressors from a batch sample from the assembly plant to the testing facility if the facility is not located at the plant or in close proximity to the plant; Except, that the Administrator may approve more

Environmental Protection Agency**§ 204.57-2**

time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) The Administrator may issue an order to the manufacturer to cease to distribute into commerce compressors of a specified category or configuration being manufactured at a particular facility if:

(1) The manufacturer refuses to comply with the provisions of a test request issued by the Administrator pursuant to this section; or

(2) The manufacturer refuses to comply with any of the requirements of this section.

(g) A cease-to-distribute order shall not be issued under paragraph (f) of this section if such refusal is caused by conditions and circumstances outside the control of the manufacturer which render it impossible to comply with the provisions of a test request or any other requirements of this section. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(h) Any such order shall be issued only after a notice and opportunity for a hearing in accordance with section 554 of Title 5 of the United States Code.

(Secs. 6, 11 and 13, Noise Control Act, Pub. L. 92-574, 86 Stat. 1244; (42 U.S.C. 4910 and 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 41635, Aug. 18, 1977; 42 FR 61455, Dec. 5, 1977; 47 FR 57712, Dec. 28, 1982]

§ 204.57-2 Test compressor sample selection.

(a) Compressors comprising the batch sample which are required to be tested pursuant to a test request in accordance with this subpart will be randomly selected from a batch of compressors of the category or configuration specified in the test request. The random selection will be achieved by

sequentially numbering all of the compressors in the batch and then using a table of random numbers to select the number of compressors, as specified in paragraph (c) of this section, based on the batch size designated by the Administrator in the test request. An alternative selection plan may be used by a manufacturer: *Provided*, That such a plan is approved by the Administrator.

(b) The Acceptable Quality Level is 10 percent. The appropriate sampling plans associated with the designated AQL are contained in Appendix I, Table II.

(c) The appropriate batch sample size will be determined by reference to Appendix I, Tables I and II. A code letter is obtained from Table I based on the batch size designated by the Administrator in a test request. The batch sample size will be equal to the maximum cumulative sample size as listed in Table II for the appropriate code letter obtained from Table I plus an additional ten percent rounded off to the next highest number.

(d) Individual compressors comprising the test sample will be randomly selected from the batch sample using the same random selection plan as in paragraph (a) of this section. Test sample size will be determined by entering Table II.

(e) The test compressor of the category or configuration selected for testing shall have been assembled by the manufacturer for distribution in commerce using the manufacturers normal production process.

(f) Unless otherwise indicated in the test request, the manufacturer will select the batch sample from the production batch next scheduled after receipt of the test request of the category or configuration specified in the test request.

(g) Unless otherwise indicated in the test request, the manufacturer shall select the compressors designated in the test request for testing.

(h) At their discretion, EPA Enforcement Officers, rather than the manufacturer, may select the compressors designated in the test request.

§ 204.57-3

(i) The manufacturer will keep on hand all compressors in the batch sample until such time as the batch is accepted or rejected in accordance with § 204.57-6; Except, that compressors actually tested and found to be in conformance with these regulations need not be kept.

§ 204.57-3 Test compressor preparation.

(a) Prior to the official test, the test compressor selected in accordance with § 204.57-2 shall not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparations, modifications and/or tests are part of the manufacturer's prescribed manufacturing and inspection procedures and are documented in the manufacturer's internal compressor assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustments, preparations, modifications and/or tests normally performed by a dealer to prepare the compressor for delivery to a customer or the adjustments, preparations, modifications and/or tests normally performed at the port-of-entry by the manufacturer to prepare the compressor for delivery to a dealer or customer.

(b) Equipment of fixtures necessary to conduct the test may be installed on the compressor: *Provided*, That such equipment of fixtures shall have no effect on the noise emissions of the compressor, as determined by the appropriate measurement methodology.

(c) In the event of compressor malfunction (i.e., failure to start, misfiring cylinder, etc.), the manufacturer may perform the maintenance necessary to enable the compressor to operate in a normal manner.

(d) No quality control, testing, assembly, or selection procedures shall be used on the completed test compressor or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other compressors of that category which will be distributed in commerce, unless such procedures are required or permitted

40 CFR Ch. I (7-1-02 Edition)

under this subpart or are approved in advance by the Administrator.

[47 FR 57712, Dec. 28, 1982]

§ 204.57-4 Testing.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 204.54 for each compressor selected for testing pursuant to this subpart.

(b) No maintenance will be performed on test compressors, except as provided for by § 204.57-3. In the event a compressor is unable to complete the emission test, the manufacturer may replace the compressor. Any replacement compressor will be a production compressor of the same configuration, and the replacement compressor will be randomly selected from the batch sample and will be subject to all the provisions of these regulations.

§ 204.57-5 Reporting of test results.

(a)(1) The manufacturer shall submit a copy of the test report for all testing conducted pursuant to § 204.57 at the conclusion of each twenty-four hour period during which testing is done.

(2) For each test conducted the manufacturer will provide the following information:

(i) Configuration and category identification, where applicable.

(ii) Year, make, assembly date, and model of compressor.

(iii) Compressor serial number.

(iv) Test results by serial numbers

(3) The first test report for each batch sample will contain a listing of all serial numbers in that batch.

(b) In the case where an EPA Enforcement Officer is present during testing required by this subpart, the written reports requested in paragraph (a) of this section may be given directly to the Enforcement Officer.

(c) Within five days after completion of testing of all compressors in a batch sample, the manufacturer shall submit to the Administrator a final report which will include the information required by the test request in the format as stipulated, in addition to the following:

(1) The name, location, and description of the manufacturer's noise test facilities which meet the specifications of § 204.54 and were utilized to conduct

Environmental Protection Agency**§ 204.57-7**

testing reported pursuant to this section; except, that a test facility that has been described in a previous submission under this subpart need not be described again but must be identified as such.

(2) A description of the random compressor selection method used, referencing any tables of random numbers that were used, and the name of the person in charge of the random number selection.

(3) The following information for each test conducted:

(i) The completed data sheet required by § 204.54 for all noise emission tests including, for each invalid test, the reason for invalidation.

(ii) A complete description of any modification, repair, preparation, maintenance, and/or testing which was performed on the test compressor and will not be performed on all other production compressors.

(iii) The reason for the replacement, where a replacement compressor was authorized by the Administrator, and, if any, the test results for replaced compressors.

(4) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. All testing for which data is reported herein was conducted in strict conformance with applicable regulations under 40 CFR Part 204 *et seq.* All the data reported herein are a true and accurate representation of such testing. All other information reported herein is, to the best of (company) knowledge 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)

(d) All information required to be forwarded to the Administrator pursuant to this section shall be addressed to Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, DC 20460.

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

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 41635, Aug. 18, 1977; 43 FR 38705, Aug. 30, 1978]

§ 204.57-6 Acceptance and rejection of batches.

(a) A failing compressor is one whose measured sound level is in excess of the applicable noise emission standard.

(b) The batch from which a batch sample is selected will be accepted or rejected based upon the number of failing compressors in the batch sample. A sufficient number of test samples will be drawn from the batch sample until the cumulative number of failing compressors is less than or equal to the acceptance number or greater than or equal to the rejection number appropriate for the cumulative number of compressors tested. The acceptance and rejection numbers listed in Appendix I, Table II at the appropriate code letter obtained according to § 204.57-2 will be used in determining whether the acceptance or rejection of a batch has occurred.

(c) Acceptance or rejection of a batch takes place when a decision is made on the last compressor required to make a decision under paragraph (b) of this section.

§ 204.57-7 Acceptance and rejection of batch sequence.

(a) The manufacturer will continue to inspect consecutive batches until the batch sequence is accepted or rejected. The batch sequence will be accepted or rejected based upon the number of rejected batches. A sufficient number of consecutive batches will be inspected until the cumulative number of rejected batches is less than or equal to the sequence acceptance number or greater than or equal to the sequence rejection number appropriate for the cumulative number of batches inspected. The acceptance and rejection numbers listed in Appendix I, Table III at the appropriate code letter obtained according to § 204.57-2 will be used in determining whether the acceptance or rejection of a batch sequence has occurred.

(b) Acceptance or rejection of a batch sequence takes place when the decision is made on the last compressor required to make a decision under paragraph (a) of this section.

(c) If the batch sequence is accepted, the manufacturer will not be required to perform any additional testing on

§ 204.57-8

compressors from subsequent batches pursuant to the initiating test request.

(d) The Administrator may terminate testing earlier than required in paragraph (b) of this section based on a request by the manufacturer accompanied by voluntary cessation of distribution in commerce, from all plants, of compressors from the configuration in question: *Provided*, That once production is reinitiated, the manufacturer must take the action described in § 204.57-9 (a)(1) and (a)(2) prior to distribution in commerce of any compressors from any plant of the compressor category or configuration in question.

§ 204.57-8 Continued testing.

(a) If a batch sequence is rejected in accordance with paragraph (b) of § 204.57-7, the Administrator may require that any or all compressors of that category, configuration or subgroup thereof produced at that plant be tested before distribution in commerce.

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

(c) The manufacturer may request a hearing on the issues of whether the selective enforcement audit was conducted properly; whether the criteria for batch sequence rejection in § 204.57-7 have been met; and, the appropriateness or scope of a continued testing order. In the event that a hearing is requested, the hearing shall 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 shall affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

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

(e) Any knowing distribution into commerce of a compressor which does

40 CFR Ch. I (7-1-02 Edition)

not comply with the applicable standards is a prohibited act.

(Sec. 6, 13, Pub. L. 92-574 (42 U.S.C. 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61455, Dec. 5, 1977; 44 FR 54295, Sept. 19, 1979]

§ 204.57-9 Prohibition of distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the cessation of continued testing under § 204.57-8 once the manufacturer has taken the following actions:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the compressors, describes the problem, and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change. Such requirements include the following:

(i) Any change to a configuration with respect to any of the parameters stated in § 204.55-3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(ii) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with § 204.55-2.

(iii) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower sound level than a previously verified configuration with the same category, the configuration shall be considered verified.

(2) Demonstrates that the specified compressor category, configuration or subgroup thereof has passed a retest conducted in accordance with § 204.57 and the conditions specified in the initial test request.

(3) The manufacturer may begin testing under paragraph (a)(2) of this section, upon submitting such report, and may cease continued testing upon making the demonstration required by paragraph (a)(2) of this section: *Provided*, That the Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of

Environmental Protection Agency**§ 204.58-2**

paragraphs (a) (1) and (2) of this section.

(4) In lieu of paragraphs (a) (1) and (2) of this section, the Administrator will permit the cessation of continued testing under § 204.57-8 with respect to any subgroup of a nonconforming category or configuration if the manufacturer demonstrates to the satisfaction of the Administrator that such subgroup does not exhibit the cause of the nonconformity of such category or configuration.

(b) Any compressor failing the prescribed noise emission tests conducted pursuant to this Subpart B may not be distributed in commerce until necessary adjustments or repairs have been made and the compressor passes a retest.

(c) No compressors of a rejected batch which are still in the hands of the manufacturer may be distributed in commerce unless the manufacturer has demonstrated to the satisfaction of the Administrator that such compressors do, in fact, conform to the regulations; except, that any compressor that has been tested and does, in fact, conform with these regulations may be distributed in commerce.

(Secs. 6, 10, 13, Pub. L. 92-574 (42 U.S.C. 4909 and 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61455, Dec. 5, 1977; 47 FR 57712, Dec. 28, 1982]

§ 204.58 In-use requirements.**§ 204.58-1 Warranty.**

(a) The portable air compressor manufacturer shall include in the owner's manual or in other information supplied to the ultimate purchaser, the following statement:

NOISE EMISSIONS WARRANTY

The manufacturer warrants to the ultimate purchaser and each subsequent purchaser that this air compressor was designed, built, and equipped to conform at the time of sale to the first retail purchaser, with all applicable U.S. E.P.A. noise control regulations.

This warranty is not limited to any particular part, component, or system of the air compressor. Defects in the design, assembly, or in any part, component, or system of the compressor which, at the time of sale to the first retail purchaser, caused noise emissions

to exceed Federal standards are covered by this warranty for the life of the air compressor.

(b) [Reserved]

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

[41 FR 2172, Jan. 14, 1976, as amended at 47 FR 57712, Dec. 28, 1982]

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

§ 204.58-3

(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 noise control systems on compressors subject to this part.

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

[41 FR 2172, Jan. 14, 1976, as amended at 47 FR 57713, Dec. 28, 1982]

§ 204.58-3 Instructions for maintenance, use, and repair.

(a)(1) The manufacturer shall provide to the ultimate purchaser of each portable air compressor covered by this part written instructions for the proper maintenance, use, and repair of the compressor in order to provide reasonable assurance of the elimination or minimization of noise emission degradation throughout the life of the compressor.

(2) The purpose of the instructions is to inform purchasers and mechanics of those acts necessary to reasonably assure that degradation of noise emission levels is eliminated or minimized during the life of the compressor. Manufacturers should prepare the instructions with this purpose in mind. The instructions should be clear and, to the extent practicable, written in non-technical language.

(3) The instructions must not be used to secure an unfair competitive advantage. They should not restrict replacement equipment to original equipment or service to dealer service. Manufacturers who so restrict replacement equipment must make public any performance specifications on such equipment.

(b) For the purpose of encouraging proper maintenance, the manufacturer shall provide a record or log book which shall contain a performance schedule for all required noise emission control maintenance. Space shall be provided in this record book so that the purchaser can note what maintenance was done, by whom, where and when.

(Secs. 6, 13, Pub. L. 92-574 (42 U.S.C. 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 47 FR 57713, Dec. 28, 1982]

40 CFR Ch. I (7-1-02 Edition)**§ 204.59 Recall of non-complying compressors.**

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall and repair or modify any compressor distributed in commerce not in compliance with this subpart.

(b) A recall order issued pursuant to this section shall be based upon a determination by the Administrator that compressors of a specified category or configuration have been distributed in commerce which do not conform to the regulations. Such determination may be based on:

(1) A technical analysis of the noise emission characteristics of the category or configuration in question; or

(2) Any other relevant information, including test data.

(c) For the purposes of this section, noise emissions may be measured by any test prescribed in § 204.54 for testing prior to sale or any other test which has been demonstrated to correlate with the prescribed test procedure.

(d) Any such order shall be issued only after notice and an opportunity for a hearing in accordance with section 554 of Title 5 of the United States Code.

(e) All costs, including labor and parts, associated with the recall and repair or modification of non-complying compressors under this section shall be borne by the manufacturer.

(f) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

(Secs. 6, 11, Pub. L. 92-574 (42 U.S.C. 4910))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61456, Dec. 5, 1977]

APPENDIX I TO PART 204**TABLE I—SAMPLE SIZE CODE LETTERS**

Batch size	Code letter
4 to 8	A.
9 to 15	B.
16 to 25	C.
26 and larger	D.

Environmental Protection Agency
Pt. 204, App. I
TABLE II—SAMPLING PLANS FOR INSPECTING BATCHES

Sample size code letter	Test sample	Test sample size	Cumulative test sample size	Batch inspection criteria	
				Acceptance number	Rejection number
A	1st	4	4	0	1
B	1st	3	3	0	1
C	1st	3	3	0	2
	2d	3	6	1	2
D	1st	2	2	(¹)	2
	2d	2	4	(¹)	2
	3d	2	6	0	2
	4th	2	8	0	3
	5th	2	10	1	3
	6th	2	12	1	3
	7th	2	14	2	3

¹ Batch acceptance not permitted at this sample size.

TABLE III—BATCH SEQUENCE PLANS

Sample size code letter	Number batches	Cumulative number batches	Sequence inspection criteria	
			Acceptance number	Rejection number
A	2	2	1	(¹)
	2	4	2	4
	2	6	3	5
	2	8	4	5
B	2	2	0	(¹)
	2	4	1	4
	2	6	2	5
	2	8	3	5
C	2	10	4	6
	2	12	5	6
	2	2	(²)	2
	2	4	0	2
D	2	6	0	3
	2	8	1	3
	2	10	2	4
	2	12	3	4

¹ Batch sequence rejection not permitted for this number of batches.

² Batch sequence acceptance not permitted for this number of batches.

TABLE IV—RECOMMENDED FORMAT FOR PORTABLE AIR COMPRESSOR NOISE DATA SHEET

Test report number:

Subject:

Manufacturer: Model: Serial No.:
Rated speed: Rpm: Rated capacity: cfm (m³/in).

Configuration identification: Category identification:
Portable air compressor identification No.: Build date:

Test conditions:

Manufacturer's test site identification and location:

Reflecting plane composition:

Operating speed as tested:

Beginning of test rpm
End of test rpm

Air pressure supplied: psi (kg/cm²) Ambient wind speed mph
(km/hr).

Actual flow rate: cfm (m³/min.) Atmospheric pressure psi
(kg/cm²).

Temperature: °F (°C)

Instrumentation:

Microphone Manufacturer: Model No.: Serial No.:

Sound Level Meter Manufacturer: Model No.: Serial No.:

Calibrator Manufacturer: Model No.: Serial No.:

TABLE IV—RECOMMENDED FORMAT FOR PORTABLE AIR COMPRESSOR NOISE DATA SHEET—
ContinuedOther and Manufacturer: Model No.: Serial No.:
Data:

Sound levels (decibels)	Background sound level at location 1 (decibels)	Location					Average sound level (decibels)
		1	2	3	4	5	
A-Weighted							
Tested by:							Date:
Reported by:							Date:
Supervisory personnel:							Title:
							Title:

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS**Subpart A—General Provisions**

Sec.

- 205.1 General applicability.
- 205.2 Definitions.
- 205.3 Number and gender.
- 205.4 Inspection and monitoring.
- 205.5 Exemptions.
- 205.5-1 Testing exemption.
- 205.5-2 National security exemptions.
- 205.5-3 Export exemptions.

Subpart B—Medium and Heavy Trucks

- 205.50 Applicability.
- 205.51 Definitions.
- 205.52 Vehicle noise emission standards.
- 205.54 Test procedures.
- 205.54-1 Low speed sound emission test procedures.
- 205.54-2 Sound data acquisition system.
- 205.55 Requirements.
- 205.55-1 General requirements.
- 205.55-2 Compliance with standards.
- 205.55-3 Configuration identification.
- 205.55-4 Labeling-compliance.
- 205.55-5 Labeling-exterior, [Reserved]
- 205.56 Testing by the Administrator.
- 205.57 Selective enforcement auditing requirements.
- 205.57-1 Test request.
- 205.57-2 Test vehicle sample selection.
- 205.57-3 Test vehicle preparation.
- 205.57-4 Testing procedures.
- 205.57-5 Reporting of the test results.
- 205.57-6 Acceptance and rejection of batches.
- 205.57-7 Acceptance and rejection of batch sequence.
- 205.57-8 Continued testing.
- 205.57-9 Prohibition on distribution in commerce; manufacturer's remedy.
- 205.58 In-use requirements.
- 205.58-1 Warranty.

- 205.58-2 Tampering.
- 205.58-3 Instructions for maintenance, use and repair.
- 205.59 Recall of noncomplying vehicles.

APPENDIX I TO SUBPART B

Subpart C [Reserved]**Subpart D—Motorcycles**

- 205.150 Applicability.
- 205.151 Definitions.
- 205.152 Noise emission standards.
- 205.153 Engine displacement.
- 205.154 Consideration of alternative test procedures.
- 205.155 Motorcycle class and manufacturer abbreviation.
- 205.156 [Reserved]
- 205.157 Requirements.
- 205.157-1 General requirements.
- 205.157-2 Compliance with standards.
- 205.157-3 Configuration identification.
- 205.158 Labeling requirements.
- 205.159 Testing by the Administrator.
- 205.160 Selective enforcement auditing (SEA) requirements.
- 205.160-1 Test request.
- 205.160-2 Test sample selection and preparation.
- 205.160-3 [Reserved]
- 205.160-4 Testing procedures.
- 205.160-5 Reporting of the test results.
- 205.160-6 Passing or failing under SEA.
- 205.160-7 Continued testing.
- 205.160-8 Prohibition of distribution in commerce; manufacturer's remedy.
- 205.162 In-use requirements.
- 205.162-1 Warranty.
- 205.162-2 Tampering.
- 205.162-3 Instructions for maintenance, use, and repair.
- 205.163 Recall of noncomplying motorcycles; relabeling of mislabeled motorcycles.

APPENDIX I TO SUBPARTS D AND E—MOTORCYCLE NOISE EMISSION TEST PROCEDURES [NOTE]