

§ 205.5-3

40 CFR Ch. I (7-1-10 Edition)

(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 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 effort 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 57714, Dec. 28, 1982]

§ 205.5-3 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, the Administrator may consider any export exemption under section 10(b)(2) as void ab initio with respect to each new product intended solely for export which is distributed in commerce for use in any State.

(d) In deciding whether to institute proceedings against a manufacturer pursuant to section 11(d)(1) of the Act with respect to any product originally intended solely for export but distributed in commerce for use in any state, the Administrator will consider:

(1) Whether the manufacturer had knowledge that such product would be distributed in commerce for use in any state; and

(2) Whether 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 commerce of a product manufactured for export only.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61457, Dec. 5, 1977. Redesignated at 47 FR 57714, Dec. 28, 1982]

Subpart B—Medium and Heavy Trucks

§ 205.50 Applicability.

(a) Except as otherwise provided for in these regulations the provisions of this subpart apply to any vehicle which has a gross vehicle weight rating (GVWR) in excess of 10,000 pounds, which is capable of transportation of property on a highway or street and which meets the definition of the term “new product” in the Act.

(b) The provisions of the subpart do not apply to highway, city, and school buses or to special purpose equipment which may be located on or operated from vehicles. Tests performed on vehicles containing such equipment may be carried out with the special purpose equipment in nonoperating condition. For purposes of this regulation special purpose equipment includes, but is not limited to, construction equipment, snow plows, garbage compactors and refrigeration equipment.

§ 205.51 Definitions.

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

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

(2) *Acceptance of a batch* means that the number of noncomplying vehicles in the batch sample is less than or