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(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

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equal to the acceptance number as determined by the appropriate sampling plan.

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

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

(5) *Batch sample* means the collection of vehicles of the same category, configuration or subgroup thereof which are drawn from a batch and from which test samples are drawn.

(6) *Batch sample size* means the number of vehicles of the same category or configuration in a batch sample.

(7) *Cab over axle* or *cab over engine* means the cab which contains the operator/passenger compartment is directly above the engine and front axle and the entire cab can be tilted forward to permit access to the engine compartment.

(8) *Category* means a group of vehicle configurations which are identical in all material aspects with respect to the parameters listed in §205.55-2.

(9) *Configuration* means the basic classification unit of a manufacturer's product line and is comprised of all vehicle designs, models or series which are identical in material aspects with respect to the parameters listed in §205.55-3.

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

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

(12) *Capable of Transportation of Property on a street or highway* means that the vehicle:

(i) Is self propelled and is capable of transporting any material or fixed apparatus, or is capable of drawing a trailer or semi-trailer;

(ii) Is capable of maintaining a cruising speed of at least 25 mph over level, paved surface;

(iii) Is equipped or can readily be equipped with features customarily associated with practical street or highway use, such features including but not being limited to: A reverse gear and a differential, fifth wheel, cargo platform or cargo enclosure, and

(iv) Does not exhibit features which render its use on a street or highway impractical, or highly unlikely, such features including, but not being limited to, tracked road means, an inordinate size or features ordinarily associated with combat or tactical vehicles.

(13) *Exhaust System* means the system comprised of a combination of components which provides for enclosed flow of exhaust gas from engine exhaust port to the atmosphere.

(14) *Gross Combination Weight Rating* (GCWR) means the value specified by the manufacturer as the loaded weight of a combination vehicle.

(15) *Gross Vehicle Weight Rating* (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

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

(17) *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.

(18) *Noise Control System* includes any vehicle part, component or system the primary purpose of which is to control or cause the reduction of noise emitted from a vehicle.

(19) *Noise emission test* means a test conducted pursuant to the measurement methodology specified in this subpart.

(20) [Reserved]

(21) *Rejection of a batch* means the number of noncomplying vehicles in the batch sample is greater than or equal to the rejection number as determined by the appropriate sampling plan.

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

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(23) *Test sample* means the collection of vehicles from the same category, configuration or subgroup thereof which is drawn from the batch sample and which will receive noise emissions tests.

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

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

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

(27) *Test sample size* means the number of vehicles of the same category or configuration in a test sample.

(28) *Test vehicle* means a vehicle selected and used to demonstrate compliance with the applicable noise emission standards.

(29) *Vehicle* means any motor vehicle, machine or tractor, which is propelled by mechanical power and capable of transportation of property on a street or highway and which has a gross vehicle weight rating in excess of 10,000 pounds and a partially or fully enclosed operator's compartment.

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61456, 61458, Dec. 5, 1977; 47 FR 57714, Dec. 28, 1982]

§ 205.52 Vehicle noise emission standards.

(a) *Low Speed Noise Emission Standard.* Vehicles which are manufactured after the following effective dates shall be designed, built and equipped so that they will not produce sound emissions in excess of the levels indicated.

| Effective date | Level |
|----------------------------|---------|
| (i) January 1, 1979 | 83 dBA. |
| (ii) January 1, 1988 | 80 dBA. |

(b) The standards set forth in paragraph (a) of this section refer to the sound emissions as measured in accordance with the procedures prescribed in § 205.54-1.2.

(c) Every manufacturer of a new motor vehicle subject to the standards prescribed in this paragraph shall, prior to taking any of the actions spec-

ified in section 10(a)(1) of the Act, comply with the other provisions of this subpart or Subpart A, as applicable.

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

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

(Sec. 6, Pub. L. 92-574, 86 Stat. 1237 (42 U.S.C. 4905, 4906))

[41 FR 15544, Apr. 13, 1976, as amended at 42 FR 61456, Dec. 5, 1977; 51 FR 852, Jan. 8, 1986]

§ 205.54 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of vehicles with the standards set forth in § 205.52 for the purposes of Selective Enforcement Auditing and Testing by the Administrator.

[47 FR 57714, Dec. 28, 1982]

§ 205.54-1 Low speed sound emission test procedures.

(a) *Instrumentation.* The following instrumentation shall be used, where applicable.

(1) A sound level meter which meets the Type 1 requirements of ANSI S1.4-1971, Specification for Sound Level Meters, or a sound level meter may be used with a magnetic tape recorder and/or a graphic level recorder or indicating meter, providing the system meets the requirements of § 205.54-2.

(2) A sound level calibrator. The calibrator shall produce a sound pressure level, at the microphone diaphragm, that is known to within an accuracy of ±0.5 dB. The calibrator shall be checked annually to verify that its output has not changed.

(3) An engine-speed tachometer which is accurate within ±2 percent of meter reading.

(4) An anemometer or other device for measurement of ambient wind speed accurate within ±10 percent.

(5) A thermometer for measurement of ambient temperature accurate within ±1 C.

(6) A barometer for measurement of ambient pressure accurate within ±1 percent.

(b)(1) The test site shall be such that the truck radiates sound into a free field over a reflecting plane. This condition may be considered fulfilled if the test site consists of an open space free