

§ 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 (7-1-21 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.

(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