

(3) A complete description of the sound data acquisition system if other than that specified in appendix I.

(4) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. To the best of (company name) knowledge, all testing for which data is reported here was conducted in strict conformance with applicable regulations under 40 CFR Part 205 *et seq.*, all the data reported here are a true and accurate representation of such testing, and all other information reported here is 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).

(5) Additional information required by the test request.

(d) Information required to be submitted to the Administrator under this section must be sent to the following address: Director, Noise and Radiation Enforcement Division, (EN-387), U.S. Environmental Protection Agency, Washington, DC 20460.

**§ 205.171-8 Passing or failing under SEA.**

(a) A failing exhaust system is one which, when installed on any motorcycle which is in compliance with the requirements of subpart D and for which it is designed and marketed, together with such motorcycle produces a measured noise level in excess of the applicable noise emission standard in § 205.166.

(b) The number of failing vehicles in a sample determines whether the sample passes or fails (See applicable tables in appendix II). If the number of failing vehicles is greater than or equal to the number in Column B, the sample fails. If the number of failing vehicles is less than or equal to the number in Column A, the sample passes.

(c) Pass or failure of a SEA takes place when a decision that an exhaust system is a passing or failing unit is made on the last exhaust system required to make a decision under paragraph (b) of this section.

(d) If the manufacturer passes the SEA, he will not be required to perform any additional testing on subsequent exhaust systems to satisfy the test request.

(e) The Administrator may terminate testing earlier than required in paragraph (b) of this section, based on a request by the manufacturer, accompanied by voluntarily ceasing distribution in commerce of exhaust systems from the category in question, manufactured at the plant which produced the exhaust systems being tested. Before reinitiating distribution in commerce of that exhaust system category from that plant, the manufacturer must take the action described in § 205.171-10(a)(1) and (2).

**§ 205.171-9 Continued testing.**

(a) If an SEA failure occurs according to paragraph (b) of § 205.171-8, the Administrator may require that any or all exhaust systems of that category produced at that plant be tested before distribution in commerce.

(b) The Administrator will notify the manufacturer in writing of his intent to require continued testing of exhaust systems under paragraph (a) of this section.

(c) The manufacturer may request a hearing on the issues of whether the SEA was conducted properly; whether the criteria for SEA failure have been met; and the appropriateness or scope of a continued testing order. If a hearing is requested, the hearing will 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 will 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 exhaust system which demonstrates conformance with the applicable standard may be distributed into commerce.

(e) Any distribution into commerce of an exhaust system which does not comply with the applicable standard is a prohibited act.

**§ 205.171-10 Prohibition on distribution in commerce; manufacturer's remedy.**

(a) The Administrator will permit the manufacturer to cease testing under § 205.171-9 after the manufacturer has taken the following actions:

(1) Submission of a written report to the Administrator which identifies the reason for the noncompliance of the exhaust systems, describes the problem and describes the proposed quality control or quality assurance remedies to be taken by the manufacturer to correct the problem.

(2) Demonstration that the specified exhaust system category has passed a retest conducted in accordance with § 205.171 and the conditions specified in the test request.

(b) The manufacturer may begin testing under paragraph (a)(2) of this section upon submitting the report, required by paragraph (a)(1) of this section any may cease continued testing upon making the demonstration required by paragraph (a)(2) of this section. The Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of paragraphs (a)(1) and (2) of this section.

(c) Any exhaust system failing the noise emission tests conducted pursuant to Appendix I may not be distributed into commerce until necessary adjustment or repairs have been made and the exhaust system passes a retest.

[45 FR 86718, Dec. 31, 1980, as amended at 47 FR 57723, Dec. 28, 1982]

**§ 205.172 Maintenance of records; submittal of information.**

(a) Except as otherwise provided in regulation, the manufacturer of any new exhaust system subject to any of the standards or procedures prescribed in this subpart must establish, maintain and retain the following adequately organized and indexed records:

(1) General records:

(i) Identification and description by category parameters of all exhaust systems in the manufacturer's product line;

(ii) A description of any procedures other than those contained in this subpart used to perform noise emission tests on any test exhaust system;

(iii) A record of the calibration of the acoustical instrumentation as is described in appendix I;

(iv) A record of the date of manufacture of each exhaust system subject to this subpart, keyed to the serial number.

(2) Individual records for test exhaust systems:

(i) A complete record of all noise emission tests performed for Production Verification and Selective Enforcement Audit (except tests performed by EPA directly), including all individual worksheets and other documentation or exact copies relating to each test;

(ii) A record of the information recorded as described in Appendix I; and

(iii) A record and description of all repairs, maintenance and other servicing which were performed before successful testing of the exhaust system pursuant to these regulations and which could affect the noise emission of the exhaust system, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service.

(3) A properly filed production verification report following the format prescribed by the Administrator in § 205.168-3 fulfills the requirements of paragraphs (a)(1)(i) and (ii) of this section.

(4) All records required to be maintained under this subpart must be retained by the manufacturer for a period of three (3) years from the production verification date. Records may be retained as hard copy or alternatively reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer; however, when an alternative method is used, all information contained in the hard copy must be contained in the copy made by the alternative method.

(b) The manufacturer must, upon request, submit to the Administrator the following information with regard to new exhaust system production:

(1) Number of exhaust systems, by category, scheduled for production for the time period designated in the request.

(2) Number of exhaust systems, by category, produced during the time period designated in the request.

(c) The reporting requirements of this regulation will no longer be effective after five (5) years from the last effective date of this regulation. However, the requirements will remain in