

## Environmental Protection Agency

## § 205.163

(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 presumed act of tampering has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle or that the vehicle still meets the noise emission standard of §205.152, the act will not constitute tampering.

(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 vehicles subject to this part.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

### § 205.162-3 Instructions for maintenance, use, and repair.

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

(2) The purpose of the instructions is to inform purchasers and mechanics of the acts necessary to reasonably assure that degradation of noise emission level is eliminated or minimized during the life of the vehicle. Manufacturers shall prepare the instructions with this purpose in mind. The instructions shall 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 shall not restrict replacement equipment to original equipment or restrict service to dealer service unless such manufacturer makes public the performance specifications on such equipment.

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

was done, by whom, where, and when.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57722, Dec. 28, 1982]

### § 205.163 Recall of noncomplying motorcycles; relabeling of mislabeled motorcycles.

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

(b) A recall order issued under this section shall be based upon a determination by the Administrator that vehicles of a specified category, configuration, or class which do not conform to the regulations or are improperly labeled have been distributed in commerce. This determination may be based on: (1) A technical analysis of the noise emission characteristics of the category, configuration, or class in question; or (2) any other relevant information, including test data.

(c) For the purpose of this section, noise emissions are to be measured by the appropriate test procedure prescribed in appendix I prior to sale or any other test which has been demonstrated to correlate with the prescribed test procedure in accordance with §205.154.

(d) Any order to recall shall be issued only after notice and an opportunity for a hearing.

(e) All cost, including labor and parts, associated with the recall and repair or modification of noncomplying vehicles and relabeling of mislabeled vehicles 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.

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

EDITORIAL NOTE: The text of appendix I follows subpart E.